I-II

GOVERNMENT OF THE COLONY OF SOUTH CAROLINA

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I-II

GOVERNMENT OF THE COLONY OF SOUTH CAROLINA

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CONTENTS.

PREFACE 7

I. THE SOURCES OF SOUTH CAROLINA COLONIAL HISTORY.

(a) Laws 9
(b) Records 12
(c) Documents in England 13
(d) Newspapers and Pamphlets 15
(e) Secondary Authorities 16

II. COLONIAL DEPENDENCE.

(a) Title to the Colonies 18
(b) Colonial Grants 22
(c) Proprietary Control of South Carolina 24
(d) Royal Control;—Board of Trade 30

III. GOVERNOR AND COUNCIL.

(a) Governor 37
(b) Council 42
(c) Secretary 45
(d) Treasurer 45

IV. THE ASSEMBLY.

(a) Composition 47
(b) Sessions and Procedure 50
(c) Restrictions 53

V. THE LAND SYSTEM.

(a) The Country 56
(b) Settlements 58
(c) Townships 60
(d) Towns 63
(e) Land Grants 65
(f) Quit-rents 66

VI. THE PARISH.

(a) Organization 69
(b) Officers 70
(c) Election Unit 73
(d) Naturalization 75
(e) Incorporated Towns 76

VII. The Judiciary.

(*a*) Courts of Common Law 77
(1) Civil 78
(2) Criminal 79
(3) Appellate 82
(4) Precinct and Circuit 83
(*b*) Coroner's Courts 84
(*c*) Court of the Ordinary 85
(*d*) Court of Chancery 85
(*e*) Courts of Admiralty 86

VIII. The Militia.

(*a*) Militia proper 91
(*b*) Patrol 94
(*c*) Charleston Watch 95

IX. Taxation.

(*a*) Direct Tax 97
(*b*) Duties 100
(*c*) Licenses 104
(*d*) Local Taxes 106

X. The Currency 110

Appendix I. Population of South Carolina 115
II. Governors of South Carolina 120

PREFACE.

The following monograph aims to give a description of the government of South Carolina during the colonial period, from the constitutional standpoint. As the current course of events had been fairly well related by several interesting writers, it seemed best to omit all mention of political history except where necessary to explain constitutional changes. It is hoped that the topical method adopted will give a clearer idea of the constitutional changes than would a chronological account. The foot-notes have been made perhaps more numerous than was necessary, but the object in so doing was to show the reader where to turn for a fuller investigation of the subject treated, rather than to furnish authorities for statements in the text.

E. L. W.

CHAPTER I.

The Sources of South Carolina Colonial History.

The sources of the colonial history of South Carolina consist of the laws and records of South Carolina, the documents in the State Paper Office in London, and newspaper articles, pamphlets and books written during the colonial period, either by residents of or visitors to the colony. The condition of these sources at the present time is very unsatisfactory. Many of the statutes are lost, especially those passed during the proprietary period, where the omissions are so many as to render a correct description of the earlier years of the colony practically impossible. Eleven statutes are known to have been passed by the Assembly before the year 1682, but their titles as well as their provisions are lost. Of the twenty-one acts passed between the years 1682 and 1685, the titles alone are preserved, while of those passed between 1685 and 1700 more than one-third cannot now be found. The acts passed subsequently to the opening of the eighteenth century are in a better state of preservation.

The first collection of the statutes of South Carolina was made by Chief Justice Trott shortly after his arrival in the colony in 1698, and was printed at Charleston in 1736.[1] The first volume contains such acts passed prior to 1728 as were still in force at the time of publication, with the titles of all expired or repealed acts, except those passed prior to 1682, which Trott considered of too little importance even to mention.[2] The second volume included such acts passed be-

[1] See "Statutes at Large of South Carolina," II., 602; III., 191, 393, 447, 512, 540.

[2] Trott's "Laws of South Carolina," pp. xi.-xiv. In 1721, Trott had published at London a volume entitled "Laws of the British Plantations in America, relating to the Clergy, Religion and Learning," which has no connection with the one above mentioned.

tween the years 1728 and 1736 as were still in force, the charter of 1665, the Fundamental Constitutions and the so-called Temporary Laws of the Proprietors. The second compilation was published by Judge Grimké in 1793, immediately after the refusal of the Assembly to accept the report of the commission appointed in 1785 to digest and codify the laws of the State.[1] It is on the same general plan as Trott's volume, containing such acts as were deemed by the compiler to be in force at the time of publication, with the titles of acts expired or repealed. In 1804 a continuation containing the acts passed between the years 1791 and 1804 was published by Faust. The next collection was issued by Judge Brevard in three volumes in 1814, in the form of an alphabetical digest of all statutes deemed by him to be in force in South Carolina, whether passed by the South Carolina Assembly, the British Parliament or the United States Congress. The next and last collection was made by authority of the Assembly of South Carolina, and was printed in ten quarto volumes, 1836-1841, under the title of *Statutes at Large of South Carolina*, arranged as follows: Volume I., charters and all constitutional acts; volumes II. to VI., all acts not otherwise classified; volume VII., acts relating to Charleston, courts, slaves and rivers; volume VIII., corporation acts and the militia acts passed after 1793; volume IX., acts relating to roads, bridges and ferries, and the militia acts passed prior to 1793; volume X., an index and a chronological list of all acts of the Assembly. The edition is not as accurate as might be wished, and the attempt at classification failed to accomplish the results intended, on account of the large number of omnibus bills passed by the Assembly and the neglect of the compilers to insert cross-references. This edition also suffers in having been prepared by two commissioners not entirely in sympathy with each other.[2]

[1] See "Statutes at Large," IV., 659. This volume was cited by the writers prior to the middle of the present century generally as "Public Laws," or simply "P. L."

[2] Volumes I. to VI. were edited by Thomas Cooper, and volumes VII. to X. by David J. McCord.

Furthermore, the omissions are many and frequent; in some cases no reason is assigned for the omission, while in others the statement is simply made that the omitted acts contain nothing of importance, or that they are too illegible to be read; especially is this true of the tax acts passed after 1740, and the earlier acts relating to Charleston, the roads, bridges and the militia. All private acts are also omitted, although enumerated in the appendix to the tenth volume. The sixth and ninth volumes contain appendices giving in full several acts stated in earlier volumes to be lost. The general index in the tenth volume, as well as the several indices at the end of each preceding volume, are very meagre and unreliable. In fine, marks of haste and inattention are apparent throughout the entire work. The acts of the Assembly passed since the appearance of the *Statutes at Large* have been gathered into volumes under the same title and are considered as a continuation of the preceding ten volumes. The acts of the Assembly were numbered consecutively from 1682 to 1866, since which time they have been numbered consecutively by volumes, the acts passed in three or four successive years being grouped into one volume. Since the numbers on the original acts do not agree with those given by Trott, Grimké or Cooper, it becomes necessary in citing an act either to give the name of the collection referred to, with the number of the act, or to give the volume and page of the collection in which it is printed. The latter is the custom usually followed, although some trouble is experienced in referring to volumes 14 and 15 of the *Statutes at Large*, owing to the fact that they have been reprinted and the pages of the reprinted edition do not coincide with the pages of the original. In 1838, after six volumes of the *Statutes at Large* had appeared, William Rice issued a *Digested Index of the Statute Law of South Carolina.* The part covering the years 1790 to 1836 was very carefully prepared by the compiler; but the part covering the period prior to 1790 was taken bodily from Grimké's index, and is therefore not as accurate or as full as could be desired.

The journals of the colonial Council and Assembly, as well as the records of the parishes, are likewise in a very unsatisfactory condition. None of them have ever been printed, except in extracts, and many of the original manuscript volumes have been lost or destroyed. Since 1849, the colonial records have been arranged and indexed and deposited in the office of the Secretary of State at Columbia. The journals of the Council to 1786 have been bound in forty volumes, averaging about three hundred and fifty pages each. The first volume includes the records from 1671 to 1720; it is very fragmentary, and most of it was copied from an old Book of Records in the Ordinary's office at Charleston. The original was without arrangement or connection. The latter part of the volume was copied from loose sheets of the Council journals found in the Secretary of State's office in Charleston. There are omissions from 1672 to 1674. There are records of three meetings in 1674 and of one each in 1675, 1680 and 1681. In succeeding volumes there are many breaks between 1723 and 1742. There are no records for the years 1760-63, 1775-82 and 1785. The journals of the Commons House were similarly bound in forty volumes, containing the records from 1692 to 1776. Six of these volumes have since been lost: vols. 11, 15, 20, 36, 37 and 38, including the years 1737-39, 1741, 1745, 1762-69. There are omissions between the years 1694 and 1713, and no records are found of meetings between September, 1727, and February, 1733, and of a few meetings held in later years.[1]

It it to be greatly regretted that the earlier statutes and records of the colony are in such a wretched condition. Much help, however, is to be obtained from the documents in the State Paper Office in London.[2] Theoretically, this

[1] See the "Report of the Committee of the South Carolina Historical Society in the matter of Procuring Transcripts of the Colonial Records of this State from the London Record Office."

[2] This office was created by the Public Records Act, 1 and 2 Vict., c. 94, passed August 14, 1838. In it are deposited all the records and documents not needed for current use, which are placed under the care of the Master of the Rolls. The documents of the Board of Trade were deposited in this office in 1842.

office contains copies of all statutes passed or records made in or concerning the colonies; but the negligence of the proper officials to procure these copies, or to take proper care of such as were obtained, is evident even from a very superficial inspection. A systematic publication of abstracts of these documents was begun in 1856, under the title of *Calendars of State Papers.*[1] Thus far but nine volumes of the *Calendars of Colonial Papers*, which are edited by W. Noel Sainsbury, have been published,[2] and as the last volume concludes with the year 1676, the amount of information to be obtained from them relative to South Carolina is comparatively small, although valuable. The Historical Society of South Carolina, during the three years following its organization in 1855, issued three volumes of *Collections*, containing, in addition to addresses and short articles, abstracts of the earlier documents in the State Paper Office relating to South Carolina. These abstracts are much briefer than those published in the *Calendars*, but their value can hardly be overestimated. The war put an end to the activity of the Society. After the reconstruction period the Society was reorganized, but lack of funds prevented the continuation of the earlier publications. The later publications of the Society consist mainly of speeches and reports of committees, the most valuable of which have been bound as part one of the fourth volume. Through the efforts of the Society, the Legislature of South Carolina in 1891 appointed the "Public Record Commission of the State of South Carolina," consisting of the Secretary of State and four others, to obtain from the public archives of England transcripts of such documents relating to the history of South Carolina as are necessary or important, and to have them

[1] "Calendars" is interpreted to mean "chronological catalogues." They are published under several heads: Venetian, Spanish, Henry VIII., Domestic, Foreign, Treasury, Scotland, Ireland, Carew, Colonial, &c.

[2] Five of the nine relate to the East Indies entirely. The "Calendars of Domestic Papers" also contain a few documents relating to South Carolina.

copied and deposited with the Secretary of State.[1] It is the intention to publish these documents in a manner similar to that already adopted by New York, New Jersey and North Carolina. The *Colonial Records of North Carolina*, so ably edited by Col. Saunders, contain many documents, especially in the first two volumes, which throw much light upon South Carolina history and institutions. Occasional general helps are to be obtained from the *Documents Relative to the Colonial History of the State of New York*, edited by E. B. O'Callaghan, and the *Documents Relating to the Colonial History of the State of New Jersey*, edited by William A. Whitehead.

Extracts from the laws and records of South Carolina are to be found in several places. The Fundamental Constitutions and the two Carolina charters are to be found in Poore's *Charters and Constitutions*. Rivers' *Sketch of the History of South Carolina* and his supplementary *Chapter* each contain appendices giving in full many of the instructions to the early governors, reports, laws, etc. Extracts of other laws of more or less importance are to be found in Dillon's *Oddities of Colonial Legislation*, Goodell's *American Slave Code*, Niles' *Principles and Acts*, Williams' *Negro Race in America*, *Report of Board of Agriculture of South Carolina*, the Charleston *Year Books*, and the Reports of the *Royal Commission on Historical Manuscripts*. This commission was established by the Queen, April 2, 1869, to report upon semi-public and family archives. Thus far thirteen reports in thirty-six volumes have been issued, enumerating papers in the possession of private institutions and families and giving abstracts of the more important. The papers relating to South Carolina are few and are contained principally in the second, fourth, fifth and eleventh reports, the most important being contained in the Shelburne manuscripts in the fifth report and the Townshend manuscripts in the fourth part of the eleventh report. The manuscripts

[1] "Statutes at Large of South Carolina," XX., 1059.

relating to trade, and referring to the relations existing between the colonies and England, are many, but very few are given beyond their titles.

Of newspapers and pamphlets relating to South Carolina issued during the colonial period, very little need be said. There were three papers published in the colony previous to 1776.[1] In them are to be found unofficial records of the Assembly and essays upon the questions of the day, many of which were reprinted, with other letters, in papers published in other colonies or in Great Britain.[2] The pamphlets issued about the colony were many, and were mainly published for the purpose of fostering emigration to the colony.[3] The more valuable have been reprinted in Carroll's *Historical Collections of South Carolina*, Force's *Historical Tracts*, French's *Collections of Louisiana*, Weston's *Documents Relating to South Carolina*, and the Charleston *Year Books*, annual publications of the Charleston Council since 1880.

The secondary authorities are in general very poor. Several sketches or descriptions of South Carolina were published during the colonial period, but none of them merit the name of histories. The first history was written in 1779 by Rev. Alexander Hewatt, and was published in London. Hewatt was a native of Scotland, and had been pastor of the Presbyterian church in Charleston for several years previous to the Revolution, during which time he had obtained much information in regard to the colony. The history of the later period covered by his book is fairly correct; but the history of the earlier period shows but a slight acquaintance with the subject. The next history was written by David Ramsay, South Carolina's most noted historian, and was

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[1] "The South Carolina Gazette," 1731 to 1800, with some intermissions; "The South Carolina and American General Gazette." 1758 to 1780; "The South Carolina Gazette and Country Journal," 1765 to 1775; all weeklies and published at Charleston.

[2] Especially in the "London Magazine" and the "Gentleman's Magazine."

[3] Several were published in Germany and in Switzerland in 1711 and 1728 to 1735.

published in 1808.[1] It is interesting, but follows Hewatt too closely to be considered absolutely accurate. In 1826 Robert Mills published his *Statistics of South Carolina*, a book filled with small facts gleaned from many sources and told in an interesting manner. The book can hardly be termed a history, however. In 1840 the novelist, William Gilmore Simms, issued a history of South Carolina which practically closed with the year 1783. It contains the generally accepted account of South Carolina history, but gives no evidence of independent research.[2] In 1856 William James Rivers, now president of Washington College, Maryland, issued his *Sketch of the History of South Carolina*, with an appendix containing a large number of rare and valuable documents. The volume, which closes with the Revolution of 1719, is reliable in every respect, and is the only carefully written sketch of the early history of South Carolina that has thus far been published. Rivers in 1874 published a *Chapter in the Early History of South Carolina*, relating to the Revolution of 1719, with an appendix of documents, and also wrote the chapter on the Carolinas in the fifth volume of the *Narrative and Critical History of America*, edited by Justin Winsor. In 1883 the South Carolina Board of Agriculture issued a *Report*, which consists of a carefully written description of the State, with statistics, and several short articles written by specialists in their particular subjects.[3]

There have also been published several well written accounts of various phases of South Carolina history: Gregg's *Old Cheraws*, Logan's *History of the Upper Country*, O'Neall's *Annals of Newberry*, *Reminiscences* by Cardozo, Fraser and Johnson, *Memoirs* by Drayton and Moultrie, accounts of the Lutheran Church in South Carolina by

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[1] Ramsay's "History of the Revolution in South Carolina" also contains many references to the colony.

[2] A second and enlarged edition appeared in 1860. Many of Simms' other writings refer to South Carolina colonial history.

[3] School histories have been written by Davidson and by Weber.

Bernheim, the Episcopal Church by Dalcho, the Baptist Church by Furman, and the Presbyterian Church by Howe, and sketches of the Charleston churches in the Charleston Year Books. The general church histories of the various denominations also give good and fairly accurate accounts of the religious sects in the colony. An account of education in colonial South Carolina has been written by Edward McCrady, Jr., entitled *Education in South Carolina Prior to and During the Revolution.* Brief accounts also appear in B. J. Ramage's *Local Government and Free Schools in South Carolina*, and in Colyer Meriwether's *History of Higher Education in South Carolina.* Nothing has as yet been printed relative to slavery in colonial South Carolina. In fact, there seems to be no original material upon this subject aside from the *Statutes at Large.*

Documents referring to the colony of South Carolina indirectly are to be found in the *Journals of the House of Commons* and the *Journals of the House of Lords.* The statutes of Great Britain have been reprinted several times. The most complete edition is known as the *Statutes of the Realm*, which closes with the accession of Queen Anne. Editions of the *Statutes at Large of Great Britain* were printed in 1763 and in 1783, but both omit several acts relating to the colonies. Both also omit the acts of the Commonwealth Parliaments, which may be found, however, in Scobell's *Acts and Ordinances.* Other books bearing indirectly upon the history of South Carolina are: Stokes' *View of the Constitution of the British Colonies in* 1776, which contains specimens of instructions and commissions of Governors, Pownall's *Administration of the Colonies*, and the three books by Chalmers,—*Opinions of Eminent Lawyers, Revolt of the Colonies*, and *Political Annals of the Colonies.* They are a mine of information, but are not safe to follow blindly.

CHAPTER II.

Colonial Dependence.

The era of discovery, which began in the latter part of the fifteenth century, brought with it the peculiar doctrine of title by discovery; that is to say, newly discovered territory, not under the dominion of any Christian or Mohammedan prince, became the property of the sovereign under whose flag the discoverer sailed. The Pope, it is true, granted away these newly discovered territories by right of the so-called *Donation of Constantine*, but the claim of the various European countries to the soil of North America rested mainly upon discovery and subsequent settlement.[1] The most extraordinary part of this doctrine was that the newly discovered country belonged to the sovereign personally and not to the nation as a whole; hence the British Parliament had no right to pass any bill relating to the portion of North America claimed by the English Crown.[2] It should be noticed, however, that this conception of the King's power was not fully concurred in by Parliament, as is shown by the fact that on three several occasions bills were passed by both Houses relating to the American colonies, in spite of the protest of the Secretary of State that Parliament by so doing was trespassing upon the royal prerogative. These bills were passed in the years 1621, 1626 and 1628, but

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[1] Story, "On the Constitution," c. 1, §2; Donaldson, "Public Domain," p. 1; Johnson *et al.* v. M'Intosh, 8 Wheaton's Reports, 573.

[2] None of the navigation acts passed prior to 1640 extended to the colonies. See 1 Eliz., c. 13; 5 Eliz., c. 5, §§ 8, 11; 13 Eliz., c. 11; 35 Eliz., c. 7, §§ 8, 11; 39 Eliz., c. 18, § 8; 43 Eliz., c. 9, § 6; 1 Jac. I., c. 25, § 6; 21 Jac. I., c. 28, § 1; 3 Car. I., c. 4, § 10; 16 Car. I., c. 4.

failed to receive the royal assent,[1] and the King continued to administer the affairs of the colonies independently of Parliament.[2] As there were no sessions of Parliament between the years 1629 and 1639, the question did not again arise until the outbreak of the Civil War.[3]

When Parliament took the executive power away from Charles I., it assumed the responsibility of managing the colonies, and then for the first time really legislated for them. Several ordinances were passed in line with the policy pursued by the former royal government, designed to confine the colonial trade to Great Britain and in British ships.[4] Hence, at the Restoration trouble arose, for Parliament refused to surrender its right to legislate over the colonies, and the King refused to recognize this right claimed by Parliament. A compromise was, however, effected by which Charles II. allowed Parliament to legislate for the colonies, but retained to himself the sole power of administration. There is no documentary evidence of such an agreement, but the fact that such a division of powers was made under such circumstances leads one to believe that a compromise was effected. Had an open agreement been made in regard to this matter, and the legal relation of the colonies agreed upon and distinctly understood in England and America, it is possible, if not highly probable, that

[1] See "Journals of the House of Commons," I., 578, 591, 626, 654, 819, 825, 830, 831, 863, 874, 884, 886, 898. They are reprinted in Knox's "Controversy between Great Britain and Her Colonies Reviewed," Appendix, 81-87. "Statutes of the Realm," IV., 1208.

[2] See Sainsbury's "Calendars," I., 26, 84, 239, 251. For a proclamation setting forth the King's view of the question in 1625, see Sainsbury's "Calendars," I., 73.

[3] See further Forsyth's "Cases and Opinions on Constitutional Law," 20; Pownall's "Administration of the Colonies" (5th edit.), I., 49, 50, 142; Chalmers' "Revolt of the Colonies," I., 29, 67; "Annual Register," 1766, p. [41; Lind's "Remarks on the Principal Acts of the Thirteenth Parliament of Great Britain," 170-182; Bancroft, "Remarks on the Review of the Controversy," 23, 24; Knox's "Controversy," 147-149.

[4] See Scobell's "Ordinances," I., 113; II., 87, 132, 176.

a separation of the colonies from the mother government would not have taken place. It was this indefiniteness which was at the root of the whole difficulty. In the case of Philip Craw *vs.* John Ramsey, decided in the year 1672,[1] the court stated that the colonies belong to the realm of England, though not in it territorially, that the colonies could not make laws binding England, and that they could not be separated from England except by act of Parliament. In other words, the view was gaining ground that the powers of the Crown over the colonies could be limited in certain cases by act of Parliament, and this view would not have been expressed in open court without the King's consent.

The Revolution of 1688 changed matters somewhat. The Crown was placed at the disposal of Parliament, thus making Parliament the supreme power in the realm and giving to that body the right of colonial administration as well as of legislation. In 1706 was published a statement by Chief Justice Vaughan[2] to the effect that the King could have no rights adverse to those of Parliament, and that attempts like those of James I. and Charles I. to govern the colonies as a part of their own private patrimony would not be allowed. The colonies were declared to be a part of England and subject to laws made for them by Parliament. The next step was to assert the right of Parliament to amend any patent granted to the King, or to declare void such parts as abridged in any way the rights of Parliament over the colonies.[3] These rights were not pressed at first. The colonies continued to be governed by expedients, the King managing the colonies according to his own will, while Parliament merely oversaw and regulated his actions. But the amount of oversight gradually increased.[4] The first acts passed by Parliament in regard to the colonies regulated trade and commerce alone, merely extending to them pro-

[1] Vaughan's Reports, P. 274, at p. 300. [2] *Ibid.*, p. 400.
[3] In 1714. "North Carolina Colonial Documents," II., 136, 143.
[4] See for example, "Journals of the Commons," XXII., 488-490, 549, 550, 590.

visions similar to those existing in England for several centuries previous.[1] With the increase in trade came the need of more stringent rules and closer supervision, and it became necessary to appoint English officials to be resident in the colonies. The acts were passed by Parliament, but the officials were appointed by the King, through the instrumentality of the Board of Trade.

From passing acts relating to the colonies in general, Parliament gradually turned its attention to passing acts relating to specific colonies, mentioning them by name. Thus in 1710 it was forbidden to cut down pine trees fit for masts in New England, New York and New Jersey. In 1751, Massachusetts, Rhode Island and Connecticut were forbidden to issue paper money and declare it to be a legal tender. In 1767, New York was forbidden to pass any act or resolution until provision had been made to furnish the King's troops with necessaries. In 1730, permission was given to carry rice from Carolina to the continent of Europe direct, a privilege later extended to Georgia and Florida.[2] Finally, in 1766, Parliament formally announced that the colonies "have been, are, and of right ought to be subordinate unto, and dependent upon, the Imperial Crown and Parliament of Great Britain; and that the King's Majesty, by and with the advice and consent of Parliament, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies . . . in all cases whatever."[3] To-day the ultimate control over the colonies is vested in Parliament. Many colonies, to be sure, govern themselves, but

[1] See 12 Car. II., c. 18; 15 Car. II., c. 7; 22 and 23 Car. II., c. 26; 25 Car. II., c. 7; 7 and 8 W. III., c. 22.

[2] 9 Anne, c. 17; 24 Geo. II., c. 53; 7 Geo. III., c. 59; 3 Geo. II., c. 28; 8 Geo. II., c. 19; 10 Geo. III., c. 31.

[3] All colonial votes or resolutions denying or questioning the right of Parliament in this respect were declared void. 6 Geo. III., c. 12. See also "Journal of the Commons," XXX., 499, 500, 602; XXXII., 185; "Journals of the Continental Congress," I., 29, October 14, 1774; Chalmers' "Revolt," I., 413.

their constitutions were obtained from Parliament, by whom they may be amended, altered or revoked at any time.

It has already been stated that according to the early views the title to the New World was vested in the Crown. The sovereign ruler had the right to do with it as he pleased, to govern it personally or through another, and charters or patents once granted were deemed valid until the breach of some condition gave the Crown a right to repeal them. The earlier patents were given to encourage discovery or conquest. The first English grant of land for the purpose of colonization was that made by Queen Elizabeth to Sir Walter Ralegh in 1584. All subsequent charters given by the English monarchs were modeled upon this one to Ralegh, although varying greatly in detail. In general, the grantees were given power to govern themselves or their colonies, according to certain rules and limitations laid down by the Crown, but were expressly forbidden to do anything contrary to the laws of England. The English settlers were grouped into districts, each under a separate government and known by different names. In England they were referred to collectively as plantations.[1] Districts over which Governors were appointed by the King were generally spoken of as "provinces"; where the Governors were elected by the inhabitants, as "colonies." The settlers generally spoke of all the districts as "colonies" because of the idea of dependence contained in the word "province."[2]

South Carolina was first visited by Europeans in 1520. In that year Lucas Vasquez de Ayllon landed near Port Royal, spent a few days in examining the country and then returned to Hispaniola. In 1525, having received a commission from the Emperor Charles V. as Governor of the

[1] Parliament referred to them, in the legislative acts, as "Dominions thereunto belonging."

[2] See Pownall (5th edit.), I., 50-61, 141; Stokes, 2; Bancroft, "Review of the Controversy," 14-21. Thus South Carolina, although never a "colony" from the English point of view, is referred to in this monograph as such in accordance with the American usage.

country that he had discovered, he returned to the place before visited, but his ships foundered and his men perished, and South Carolina failed to come under the rule of Spain.

The next attempt to settle the country was made in 1562, when Jean Ribault landed at Port Royal with several Huguenots, who had been sent over at the expense of Charles IX. of France, upon the earnest solicitation of the Huguenot leader, Admiral Coligny. A fort was soon erected, named in honor of the King, Arx Carolina. Ribault returned to France for reinforcements, and the remainder of the colony soon followed him. In 1564 another French expedition landed at the mouth of St. John's river, Florida, but it was swept away in the following year by the Spaniards, who laid claim to the country.[1]

Sixty years passed by before any further attempt was made to settle South Carolina. In 1629, Charles I. of England granted to his Attorney-General, Sir Robert Heath, the territory south of Virginia, under the name of Carolana. Two or three feeble attempts were made to colonize this territory, but no settlement was ever actually made under this grant.[2]

On the restoration of Charles II. he sought to reward

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[1] An excellent account of these French colonies is given in Gaffarel's "Histoire de la Floride Française." See also Hakluyt, "Voyages, Navigations, Traffiques and Discourses of the English Nation," III., 304-360; French's "Historical Collections of Louisiana," III., 197-222; I. (N. S.), 165-362; II. (N. S.), 158-190.

[2] The patent is given in "North Carolina Colonial Records," I., 1-13, and Coxe's "Carolana," 109-112. See Sainsbury's "Calendars," I., 102, 109, 110, 190, 194, 207; II., Nos. 476, 525; IV., No. 151; "South Carolina Historical Society's Collections," I., 200-202; Neill, "English Colonization of America during the Seventeenth Century," 213, 214. The early Virginia charter had included Carolina within its limits. It is worthy of note that the first patent covering the district was granted by the Emperor Charles V.; that the first attempt to found a colony there was made at the expense of Charles IX. of France, that a charter to settle the country was given by Charles I. of England, and that a settlement was actually made during the reign of Charles II. of England. It is therefore perhaps unnecessary to discuss the question whence Carolina received its name.

those who had been most instrumental in causing his return to the throne. Among other grants, he gave, under the name of Carolina, the territory included between 31° and 36° north latitude, and extending from the Atlantic to the Pacific, to eight noblemen: the Earl of Clarendon, his companion in exile, who had materially contributed to his return; General Monk, later Duke of Albemarle, who had also aided in his return; the Earl of Craven, a member of the Privy Council and a distinguished military leader; Lord Ashley, an astute politician and later Earl of Shaftesbury; Sir George Carteret, who had sheltered Charles in his flight; Sir William Berkeley, who, as Governor of Virginia, had for a time prevented that colony from recognizing Cromwell; and Sir John Colleton, an active partisan of the King during the Protectorate. The charter is dated March 24, 1662-3. At the time there were a few straggling settlers in the territory; some Virginians had settled on the Chowan, and a few adventurers from Massachusetts had settled on Cape Fear river; to the former was given the name of Albemarle; to the latter, that of Clarendon. Two distinct forms of government were adopted for these settlers.[1] At the same time the King declared the patent to Heath void for non-settlement, and ordered the Attorney-General to proceed by *inquisition* or *scire facias* to revoke all grants of the territory of Carolina made prior to 1662.[2] Heath had sold his patent to the Earl of Arundell. After passing through several hands it was transferred, in 1696, to Daniel Coxe of New Jersey. The patent was never legally declared void, and Coxe's descendants, after twice obtaining from the Board of Trade a recognition of the validity of their patent, received from the Crown in 1768, in settlement for their claims to the territory of Carolina, one hundred thousand acres of land in the interior of New York, including the

[1] For the forms see Sainsbury's "Calendars," III., No. 1620; Rivers, "Sketch," 335-337; and "North Carolina Colonial Documents," I., 75-92.

[2] The Order in Council is given in Rivers, "Sketch," p. 65, note.

present towns of Paris, Kirkland and Westmoreland and part of the city of Rome.[1]

Several colonists arrived from England and the Barbadoes and efforts were made to colonize the territory; but as these settlements were found to be on land not included within the grant to the Proprietors, the King was induced, June 30, 1665, to grant a new charter, very similar in contents to the former, but extending the limits of Carolina on the north to 36° 30′, the present northern boundary of North Carolina, and on the south to 29°, to include the settlements already made. The Proprietors were given the land in free and common socage,[2] with all the rights that any Bishop of Durham "ever heretofore had, held, used, or enjoyed, or of right, ought or could have, use or enjoy" in his Palatinate. The rights and privileges of the Bishops of Durham had been very extensive, but since the Reformation they had steadily decreased in number, until, in 1646, the Palatinate was abolished. Charles II. restored the bishopric, depriving it of all feudal incidents, however. Hence the rights and privileges of the Bishop of Durham were much less extensive in 1663 than in earlier years, which accounts for the insertion in the patent of the words "ever heretofore had." They seem to have been at their height at the opening of the fourteenth century, and an enumeration of the rights of the Bishop in the year 1300 will give an idea of the powers conferred by Charles II. upon the eight noblemen in 1665. They included the right to hold courts of all kinds and to appoint court and other

[1] See "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., pp. 254-256; Coxe, "Carolana"; "New York Colonial Documents," VII., 926; MacPherson's "Annals of Commerce, Manufactures, Fisheries, and Navigation," III., 480; "North Carolina Colonial Records," I., 35, 519. See also Jones, "Annals and Recollections of Oneida County," 59, 60, where an abstract of the grant is given. See also "Laws of New York," 1810, c. 139; 1811, c. 105.

[2] In which the service rendered is fixed and certain, as opposed to military tenure, where the service is uncertain.

officials of all grades, to issue writs, precepts and mandates, and to raise forces and levy subsidies in their own name, to have a mint and coin money, to pardon treasons, murders, felonies and misdemeanors, to have a Parliament, grant charters, create a nobility, and receive forfeitures and escheats of every description.[1] A few of these rights, however, were somewhat abridged by subsequent provisions in the charter. In return for these extensive grants and privileges, the Proprietors were to give the King one-fourth of all the gold and silver found in the colony, pay a yearly rental of twenty marks and recognize him as their sovereign lord. Practically these three provisions were valueless, for no Carolina mines were worked until after the Revolutionary War, and the Proprietors seem to have been as remiss in paying their yearly rental[2] to the King as the colonists were in paying quit-rents to them, while the King was recognized as sovereign lord only when it seemed dangerous not so to recognize him.

It early became evident that a general scheme of government must be devised if the territory was to be properly governed. The scheme adopted was that drawn up by Shaftesbury, with the aid of his friend, the philosopher John Locke. This document, generally referred to as the Grand Model, but to which the name "Fundamental Constitutions" was given, was adopted July 21, 1669, and was informally assented to individually by the colonists who sailed from England a month later. The Proprietors later referred to this as a "rough sketch"[3] and sent to the colonists for their ratification, in accordance with the provisions of the charter, a revised set bearing the date March 1, 1669-70. Failure to persuade the settlers to assent to the revised form resulted in two modifications bearing the dates of January 12, 1681-2 and August 17, 1682, respec-

[1] See Sir Thomas Duffus Hardy's Introduction to the "Register of Richard de Kellawe," in the "Rolls Series."

[2] "North Carolina Colonial Records," II., 722.

[3] Chalmers' "Annals," II., 331.

tively. These, as well as a revision by the Assembly in 1687, the settlers refused to consider, and the Proprietors made no serious effort to force them upon the colonists. A final revision by Governor Archdale, April 11, 1698, met the fate of its predecessors.[1]

According to the Fundamental Constitutions, the number of Proprietors was always to remain eight, none of whom, after 1701, was to be allowed to dispose of his share, which descended to heirs male. Eight offices were created, of which each Proprietor was to hold one: Palatine, Admiral, Chamberlain, Chancellor, Constable, Chief Justice, High Steward, and Treasurer. The eldest Proprietor was Palatine; the other Proprietors chose their offices in order of seniority.[2] Each officer was at the head of a supreme court. The Palatine's court consisted of all the Proprietors. Its duties were to call assemblies, elect officers, locate towns, dispose of money, approve or veto measures proposed by the colonial Council, etc. Each of the other courts consisted of the proper Proprietor and six Councillors, concerning whose election very elaborate provisions were made. The Chancellor's court had charge of the great seal, licensed printing, made treaties with the Indians, etc. The Chief Justice's court heard appeals, registered documents, etc. The Constable's court had charge of the arms, garrisons, forts and the militia. The Admiral's court looked out for the forts, tide-waters and shipping. The Treasurer's court had charge of matters relating to finance. The High Steward's court had charge of trade, manufactures, public buildings, roads, drains, bridges, fairs, surveys, locating towns, etc. The Chamberlain's court cared for ceremonies, her-

[1] Sainsbury's "Calendars," III., Nos. 84, 157, 284; Trott's "Laws of South Carolina," pp. viii.-x. The first set contained 111 articles; the second and third, each 120; the fourth, 121; the fifth, 41. The set generally referred to by the writers is the second, although they almost invariably speak of it as the first.

[2] After 1708 the Palatine was elected by all the Proprietors collectively, and the other offices were abolished. See "South Carolina Historical Society Collections," I., 176.

aldry, pedigrees, registries of births, marriages and deaths, fashions, games and sports. Each court had twelve Assistants to prepare and put in order any business referred to it. Each was of the highest grade and no appeal could be taken from its decisions.[1] The other provisions, relating to the nobility, local courts, legislature, lands, towns, etc., will be considered in their proper places. The form of government actually adopted in South Carolina, however, differed greatly from the scheme as outlined. The small number of inhabitants at first rendered it impossible to put the elaborate "Constitutions" into operation, and the larger number of inhabitants later refused to permit its introduction. Temporary laws were therefore sent over by the Proprietors[2] and adopted at the outset, and the form later assumed in the history of the colony was a development of this temporary form, which will be explained at length in subsequent chapters.

The amount of friction between the colonists and the Proprietors was considerable. In the early years of the colony the Proprietors had expended large sums of money in the hope of ultimately obtaining large returns. Their colonial possessions, however, proved rather a burden instead of a source of income. The settlers, on the other hand, had many complaints and, feeling that the Proprietors were not treating them fairly and justly, they did not render them the obedience which the Proprietors felt to be their due. Furthermore, troubles arose between the Proprietors and the Crown. The revocation of the extensive grants made by the earlier Stuarts was desired by James II. His Attorney-General was ordered to proceed by writ of *quo warranto* against the charters of the colonies of Rhode Island and Connecticut, and against the Proprietors of Maryland, Carolina, Delaware, East and West Jersey

[1] See §§ 1-6 and §§ 28-49 of the second set of Fundamental Constitutions, which is the set referred to in this monograph.

[2] Sainsbury's "Calendars," III., Nos. 515, 713, 867, 1307.

and Pennsylvania.[1] The Proprietors of Carolina retained their charter by offering to surrender it and delaying its surrender until after the Revolution of 1688. In 1689, 1695, and again in 1700, William advised the repeal of all charters, and Anne, in 1706, formally instituted proceedings against the Carolina charter, but the Proprietors continued to govern their possessions until the Carolina Revolution of 1719.

The causes of the Revolution of 1719 were many, but may all be included under the general head of dissatisfaction with the Proprietors. In the first place, the failure of the Proprietors to aid the settlers in money or by troops to protect the colony against the savage attack of the Yemassees in 1716 and their subsequent appropriation of the Indian lands to their own private use did not tend to conciliate a body of men at the time smarting under earlier injustices. Furthermore, there was great dissatisfaction with Chief Justice Trott, who was said to be partial in his decisions, to increase his fees illegally, to argue cases in his own court and to decide in court upon the validity of papers previously drawn up by himself. Complaints of these practices were answered by the Proprietors with a censure. Again, the Council and Assembly were dissolved for listening to and favoring reforms in the government. Finally, various salutary acts of the Assembly were disallowed, notably the reform in the method of holding elections. A new Council was appointed which consisted entirely of friends of the Proprietors. The Governor undertook to regain many privileges which had been surrendered by his predecessors. A war with Spain had been declared and a Spanish invasion was expected. The Governor summoned the militia to be prepared in case of an attack. But a conspiracy was formed quietly and quickly, and November 28, 1719, the militia informed the Governor that the colonists had decided for the future to recognize the King, and not the Proprietors, as their sovereign. A similar message

[1] "North Carolina Colonial Records," I., 352, 354, 359.

was sent by the newly elected Assembly. An attempt of the Governor to temporize meeting with failure, he issued a proclamation dissolving the Assembly. But the Assembly resolved its election to have been illegal and adjourned to a neighboring tavern, where it continued to sit as a "convention." A proclamation was issued directing all officials to remain in office until further orders. A Governor was selected who gave new commissions to the officers of the militia, and the machinery of government continued in operation without a break. All attempts of the proprietary Governor to regain control of the government failed, for no one was found to obey his orders.[1] The Revolutionary Convention, December 23, 1719, next resolved itself into a colonial Assembly and appointed a new Chief Justice, Secretary and other public officials. Letters were sent to the Board of Trade explaining their conduct and asking that Carolina be made a royal colony.[2] The Crown had long desired to be rid of proprietary governments, but hesitated to declare the charter forfeited until it was evident that the settlers actually preferred a royal form of government.[3] September 27, 1720, the Attorney-Gereral was ordered to bring a *scire facias* to vacate the charter, and a royal Governor over South Carolina was appointed for the first time. The Proprietors saw their American possessions melt away, but looked on listlessly[4] until 1726, when they made an earnest effort to regain the colony by the appointment of officers

[1] For an account defending the Proprietors and condemning Gov. Johnson and the colonists in unmeasured terms, see Chalmers' "Revolt," II., 86-92.

[2] The letters are given in full in Rivers, "Chapter," 39-50. See "Collections," II., 143, 144.

[3] For a full account of the Revolution, see Yonge, "A Narrative of the Proceedings of the People of South Carolina in the year 1719," printed in full in Carroll's "Historical Collections of South Carolina," II., 143-192.

[4] An attempt to sell the colony to some Quakers for £230,000 failed to be consummated. See Townshend Papers, in "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., p. 255.

of administration and justice.[1] Failing in this and subsequent attempts,[2] they finally offered to sell their charter to the King.[3] The title of seven-eighths of the colony[4] of Carolina was transferred to the Crown for £17,500, and seven-eighths of the quit-rents for £5,000, the colonists at the time being £9,500 in arrears. The share of one of the Proprietors, Lord Carteret, was not purchased. His undivided eighth was exchanged in 1743 for a strip of land lying between 35° 34′ north latitude and the southern boundary of Virginia, and extending from the Atlantic to the Pacific, which, however, was lost to him by the war of the American Revolution.[5] Carolina, which under the Proprietors had been considered a single colony, though containing two distinct governments, was, after the purchase by the King, considered two colonies, and ever after referred to as such.[6]

After 1719, South Carolina was governed as a royal province, and the method of governing such dependencies remains now to be described. The colonial governments were at first modeled upon that of Durham, but they very early began to be treated as was the Island of Jersey, which had come to England as a part of Normandy, but had been retained on the surrender of continental Normandy to France. The government of Jersey was vested in the King, and appeals from the Jersey courts lay to the King in Council as Duke of Normandy.[7] The great increase in the number of colonies during the reign of Charles I. induced that monarch to appoint a "committee" to oversee their manage-

[1] "Collections," I., 172, 173, 175, 197, 198, 235.

[2] "Collections," I., 239, 242.

[3] "Collections," I., 174, 175, 243; "North Carolina Colonial Records," II., pp. iii. and 721; III., 6, 32-47; Townshend Papers, *supra*, p. 256; "Journals of the Commons," XXI., 166, 179, 330; 2 Geo. II., c. 34.

[4] There were eleven Proprietors by this time.

[5] Carroll, I., 360; "Collections," II., 284; "North Carolina Colonial Records," IV., 655-663.

[6] The Albemarle colony received the name of North Carolina and the Ashley River colony that of South Carolina.

[7] See Pownall (5th ed.), I., 61-63.

ment. By the commission, which bears date of April 28, 1634,[1] twelve persons were appointed, under the name of "Commissioners of Foreign Plantations," to make laws and orders for the colonies, to impose penalties for ecclesiastical offences, to remove Governors, to appoint Justices and to establish courts.[2] But the commission seems to have made no attempt to govern the colonies, and a return was soon made to the former system of appointing a sub-committee of the Privy Council for foreign plantations.[3]

October 20, 1643, upon the rupture with the King, a committee was appointed by the House of Commons,[4] which managed the colonies after a fashion until the execution of the King, January 29, 1649.[5] During the following month the House of Commons decreed the abolition of royalty and of the House of Lords, and placed the executive power in the hands of a Council of State consisting of forty-one members.[6] The Council was subdivided into several committees, and all matters of importance were referred to the proper committee before consideration by the Council as a whole. The "Committee for Trade and Plantations" was early established,[7] but was later divided into a "Committee for Trade" and a "Committee for Plantations."[8] These gave way, December 2, 1652, to a standing committee of

[1] The plan had been broached three years before. See Sainsbury's "Calendars," I., 138.

[2] *Ibid.*, I., 177. Another commission, similar to the above, was issued two years later, *Ibid.*, I., 232. It is given in full in Rymer's "Foedera," XX., 8-10; Hazard's "State Papers," I., 344-347; Pownall (4th ed.), Appendix, pp. 67-73; (5th ed.), Appendix, II., 155-163.

[3] Sainsbury's "Calendars," I., 281 *et seq.*

[4] "Journals of the Commons," III., 283. The ordinance is given in full in Hazard's "State Papers," I., 344-347 and 633-634.

[5] "Journals of the Commons," III., 296, 299; IV., 475, 476, 648, 695; V., 171, 405, &c.

[6] See the letter by the Council to the colonies, July 24, 1649, in Sainsbury's "Calendars," I., 330.

[7] March 2, 1650, *Ibid.*, I., 335.

[8] February 18, 1651, *Ibid.*, I., 352.

twenty-one members of the Council, who transacted all the business relating to trade and plantations, without reference to the Council of State.[1] Thus, for example, this committee granted a charter to Rhode Island, appointed Governors over several of the colonies, heard complaints and corrected abuses as far as possible.[2]

The desire of the House of Commons to retain entire control of the colonies after the Restoration was checked, July 4, 1660, by the Privy Council appointing a Committee for Plantation Affairs.[3] The Commons, however, demanded a committee, independent of the Privy Council, to enforce the Navigation Act which had recently been passed. In accordance with this demand, Charles II. appointed, November 7, 1660, a standing Council of Trade,[4] and on the first day of the following month a standing Council for Foreign Plantations.[5] Both councils included members from the Privy Council as well as nobles, gentlemen and merchants; the duty of the former was to carry out the provisions of the Navigation Act as it related to Great Britain, while the duty of the latter was to obtain reports from the colonial Governors, hear complaints, maintain justice, make the governments uniform in the various colonies and bring them under stricter control.[6] After two slight reorganizations[7] of the Council for Foreign Plantations, it was consolidated, September 16, 1672, with the Council of Trade, under the name of Council of Trade and Plantations.[8] But ap-

[1] *Ibid.*, I., 394, 477.

[2] Chalmers' "Revolt," I., 85-93.

[3] The patent is printed in full in "New York Colonial Documents," III., 30.

[4] For the commission see "New York Colonial Documents," III., 30-32.

[5] Ditto, *Ibid.*, III., 32-34.

[6] Sainsbury's "Calendars," I., 492. The instructions are printed in "New York Colonial Documents," III., 34-36.

[7] July 30, 1670, the membership was reduced from forty-eight to ten, increased March 20, 1671, to sixteen. See Sainsbury's "Calendars," III., Nos. 342, 470.

[8] Sainsbury's "Calendars," III., Nos. 923, 992.

parently there was some dissatisfaction with the Council, for, two years later, the King revoked their commission and transferred their duties to the Privy Council.[1] The Privy Council, March 12, 1675, appointed several committees; among others, one called Lords of the Committee of Trade and Plantations, to which the duties formerly exercised by the Council, with some modifications, were given.[2] February 16, 1689, this Committee was reduced from twenty-one to twelve and the members thereof were appointed by the Crown instead of by the Privy Council.[3]

This Committee of Trade and Plantations with its various changes existed until 1696. On January 31 of that year resolutions were introduced into Parliament favoring the establishment of a Council of Trade, the members of which were to be appointed by Parliament. The duties of this Council were to consider the trade and manufactures of the plantations and to ascertain the best method of improving the same for the benefit of English merchants.[4] A bill was later introduced embodying the substance of these resolutions.[5] But the King, on the fifteenth day of May, rendered further action unnecessary by establishing a Board of Trade and Plantations, consisting of seventeen members, including the Chancellor, President of the Privy Council, Lord Treasurer, Bishop of London, Lord Admiral, Chancellor of the

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[1] Sainsbury's "Calendars," III., No. 1412; IV., No. 429; "New York Colonial Documents," III., 228; Chalmers' "Opinions," p. vii.

[2] The patent is given in "New York Colonial Documents," III., 229, 230, and "North Carolina Colonial Records," I., 223. See also Pownall (5th ed.), I., 65, and McCulloch's "Miscellaneous Essay Concerning the Courses Pursued by Great Britain in the Affairs of her Colonies: With Some Observations on the Great Importance of our Settlements in America, and the Trade Thereof," 23-26; Sainsbury's "Calendars," IV., Nos. 460, 461, 463, 464, 648, 649, 650.

[3] "New York Colonial Documents," III., 572; Sainsbury's "Calendars," IV., No. 879.

[4] The resolutions are given in full in the "Journals of the Commons," XI., 423, 424.

[5] February 12, 1696. *Ibid.*, XI., 440.

Exchequer, and the two Secretaries of State.[1] This Board received from the Privy Council all the books, papers, etc., relating to trade and the plantations. Their duties were similar to those of their predecessors: to examine all acts passed in the colonies, review the proceedings of colonial Assemblies, examine complaints, redress grievances, prepare all colonial instructions, recommend suitable persons for colonial appointments, and make annual reports to the King, copies of which both Houses of Parliament generally demanded and received.[2]

The duty of the Board was, in reality, to advise the King, and its power and usefulness depended to a very great extent upon the attention paid to its advice. A strong Ministry almost entirely ignored it, while a weak Ministry paid great deference to it. All colonial matters coming to the attention of any official were referred to the Board, to be decided as might seem best. But their decisions were not final. They were frequently rendered useless by the caprice of the Ministry or King. On the whole, however, it must be admitted that the Board performed very creditably the task assigned to it, although the routine work was performed almost entirely by its secretary. The many and intricate law questions that were continually arising were referred at first to the Attorney and Solicitor-General for opinion. But with the increase of business, one of the King's counsel was appointed[3] to attend to the law department of the Board. The power of the Board steadily decreased after the accession of George III., until in 1768 its authority was revived and a Secretary of State for the Colonies was appointed,

[1] "New York Colonial Documents," IV., 145-148. Vol. III., pp. xiii.-xix., contains a list of all members of the board until its abolition in 1782.

[2] McCulloch's "Miscellaneous Essay," 29-41; Chalmers' "Revolt," I., 270; Chalmers' "Opinions," p. viii. See for example, "Journals of the Commons," XXI., 934; XXII., 488-490, 590; XXX., 448-451.

[3] In 1714.

who was made an *ex-officio* member of the Board.[1] In 1782, after the close of the American Revolution, the Board was abolished as unnecessary, and the care of the English colonies again returned to the Privy Council.[2]

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[1] In regard to the duties of Secretary of State see "New York Colonial Documents," III., p. v.; IV., 754; VII., 848; VIII., 7.

[2] McCulloch's "Miscellaneous Essay," 52-62; Chalmers' "Opinions," pp. viii.-xx.

CHAPTER III.

Governor and Council.

Section 59 of the Fundamental Constitutions provided that the eldest Proprietor in Carolina should act as Governor. Before 1690, however, the Governor of Carolina was named by the Palatine;[1] after that date he was appointed by a majority of the Proprietors,[2] subject, after 1696, to the approval of the Crown, to whom he gave bonds, with satisfactory security, for the proper observance of the navigation acts.[3] When South Carolina became a royal province the right to appoint Governors became vested in the Crown. This power, however, was generally exercised by the Board of Trade, who considered applications for governorships and recommended to the King for appointment such persons as seemed most worthy, and the King generally appointed the nominee of the Board.[4] There are several instances, however, of the failure of the King to commission nominees of the Board, or even to wait a year or two before finally ratifying the appointment. The custom generally was to appoint a needy Englishman to the office, although in a few cases a prominent man in the colony was selected. It was also not uncommon to transfer a Governor from one colony to another.

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[1] Rivers, "Sketch," 352, 354, § 1; Sainsbury's "Calendars," III., No. 867.

[2] Rivers, "Sketch," 430; "Collections," I., 126, 133.

[3] 7 and 8 W. III., c. 22, § 16, and 8 and 9 W. III., c. 20, § 69. "North Carolina Colonial Records," I., 461. See "Collections," I., 152, 165, 177, 181, 206, 212; II., 216, 228, 241, 246, 248, 249, 254; Chalmers' "Revolt," I., 274. The Crown refused to accept Joseph Blake as Governor because of his known hostility to the navigation acts. "Collections," I., 214; "North Carolina Colonial Records," I., 530.

[4] See McCulloch, "Miscellaneous Essay," 41; "New Jersey Colonial Documents," VIII., 23-26.

The intention of the Proprietors at the outset was to divide the territories into several distinct colonies, over each of which a Governor was to be appointed; but ere long these colonies had been reduced to two,—Albemarle and Ashley River. In 1690, the Proprietors, having decided to unite the two governments and rule them as one colony, appointed the Governor of Albemarle as Governor of Ashley River also. But this arrangement did not give entire satisfaction, for the interests of the two colonies were very diverse, and the Governor resided in Charleston and governed North Carolina by means of a deputy.[1] Thus in 1712 the Proprietors returned to the old system of two Governors for the two colonies, although no formal division between the two was made. The Revolution of 1719 was confined to the southern colony alone, and between 1720 and 1728 the inhabitants of the southern colony were governed by an appointee of the Crown, while the inhabitants of the northern colony paid allegiance to the appointee of the Proprietors. During the royal period each colony had a Governor entirely independent of the other.[2]

After appointment, a Governor received his commission. Commissions were at first very brief, simply informing the recipient of his appointment to office;[3] but by the middle of the eighteenth century they had become greatly extended, stating his duties and powers at great length.[4] With his commission, which was couched in general terms, he also received instructions which were more specific in character. A Governor received but one commission, while his instructions were innumerable. The latter varied greatly in the early years, but in time they became fixed, and one set differed but little from its predecessors.[5] The Governor was

[1] "North Carolina Colonial Records," I., 384, 389, 554, 694.

[2] On the question of boundaries see "North Carolina Colonial Records," V., 372-393; VIII., 554-574.

[3] A fac-simile of Gov. Smith's commission of 1693 is given in "Harper's Monthly" for December, 1875, p. 17.

[4] Stokes, pp. 150-164, gives one in full.

[5] See "Collections," II., 175, 189, 194.

expected to enter upon his duties as soon as he could conveniently, generally within a year from the time of receiving his commission. James Glen, however, did not start until five years had elapsed after the issue of his commission. Immediately upon his arrival in the colony the Governor called a meeting of the Council, where his commission was read and recorded and he himself took the oaths of Allegiance and Supremacy, signed the Declaration against Transubstantiation, etc., as required of all English officeholders, which acts inaugurated him into office.[1]

The extent of the Governor's powers is well shown by his title. His commission appointed him "Captain-General and Governor-in-Chief in and over the Province, and Chancellor, Vice-Admiral and Ordinary of the same."[2] His powers were executive, legislative, judicial, ecclesiastical and military. He could remove any official or councillor for cause and appoint a temporary successor or fill a vacancy, while several officials were under his direct appointment. He alone called, prorogued and dissolved the Assembly and granted pardons and reprieves. He also acted as Chief Justice in the Court of Errors, probated wills and granted administration. But his powers were somewhat abridged in the later colonial period by his being compelled to obtain the consent of the Council before anything of importance could be done or any appointment be made.[3] Moreover, he was expected to be in constant communication with the Board of Trade,

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[1] Stokes, 150, 177. The oaths were required by 1 Eliz., c. 1; 3 Jac. I., c. 4; 12 Car. II., c. 18, § 2; 13 and 14 Car. II., cc. 3 and 4; 15 Car. II., c. 7; 25 Car. II., c. 2, § 9; 1 W. & M., cc. 1 and 8; 1 W. & M., Sess. II., c. 2, § 3; 3 W. & M., c. 2; 7 and 8 W. III., c. 22, § 4; 8 and 9 W. III., c. 20, § 69; 6 Anne, cc. 7, 14 and 23; 1 Geo. I., Stat. II., c. 13, § 1; 4 Geo. III., c. 15, § 39; 6 Geo. III., c. 53. They are collected in Stokes, 178-183.

[2] Stokes, 149; Carroll, II., 220. Under the Proprietors his powers were not as extensive. Prior to 1712 he was merely Governor, "Collections," I., 160.

[3] The powers are stated in full in the various commissions, but they varied greatly from time to time. See Stokes, 150-164; Rivers, "Chapter," 66, § 37; 79, § 46.

who heard complaints against him and redressed grievances, having his bond to sue upon if necessary.[1] He was also expected to send home copies of all documents signed, proclamations issued, and all records of the courts, Assembly and Council.[2] But these expectations were seldom realized, and the State Paper Office at London contains many requests from the Board of Trade to Governors to forward documents.

The question of the Governor's salary caused less trouble in South Carolina than in other colonies. Until 1719 it was paid by the Proprietors, although an attempt was early made by them to throw its payment upon the colonists.[3] But after South Carolina came under the control of the Crown the latter always insisted that a stated annual salary be paid by the colony. This, however, South Carolina refused to do.[4] Tax bills and appropriation acts were passed annually for the year last past, and then only after other legislation had been approved, thus forcing the Governor to call an annual session of the Assembly or wait indefinitely for his salary.[5] His salary as paid by the Proprietors at first was £200 a year,[6] later increased to £400; under the Crown it was £500 sterling a year, besides house-rent.[7] In addition to these "annual gifts" of the Assembly and a small salary from the King, the Governor received a large income

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[1] For crimes and oppression Governors were tried before the King's Bench in England, 11 and 12 W. III., c. 12.

[2] "New Jersey Colonial Documents," VIII., 26; Postlethwayt, I., 426.

[3] In 1677, "Collections," I., 101, 155.

[4] *Ibid.*, II., 119, 135, 145, § 25.

[5] See Johnson's "Reminiscences," 8. For an exception see "Collections," II., 287.

[6] Sayle received but £40, Sainsbury's "Calendars," III., No. 474; West, £60, Rivers, "Sketch," 391.

[7] "Collections," I., 138, 152, 155, 165, 299; "Statutes," III., 317, 336, 360, 392, 447; IV., 63, 137, 199, 224, 278; "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., 255. An act was passed in 1712 to erect a Governor's house, but its provisions were never carried out. See "Statutes," II., 380-381.

from fees for licenses, writs, probate of wills, letters of administration, etc.[1]

A Governor served during pleasure, and was liable at any time to be confronted by a successor. Under the Proprietors, prior to 1691, the Governor could be removed by the Palatine alone;[2] after that date, by six Proprietors against the will of the Palatine.[3] After 1721 he was removable by the King alone. He was generally allowed, by and with the consent of the Council, to appoint an acting Governor during his absence, a right frequently exercised.[4] Lieutenant-Governors were frequently appointed in the islands, but seldom on the continent. Col. Broughton was the only Lieutenant-Governor commissioned in South Carolina.[5] If the Governor died or withdrew from the colony without designating a successor, the vacancy was filled by the Council before 1721; after that date the duties of Governor were performed by the senior councillor in appointment.[6] The salary of a Lieutenant-Governor or acting Governor was half that of the Governor, with fees, but with no allowance from the King.[7] After the departure of Governor Campbell, in September, 1775, the civil administration of the colony was conducted by the Provincial Congress through committees. This Congress drew up a constitution, which was promulgated in March, 1776, and under which South Carolina was governed until the adoption of the more permanent constitution of 1778.

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[1] See tables of fees, "Statutes," II., 3, 19, 40, 87, 145; III., 415; Townshend Papers, in "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., 265-6.

[2] Rivers, "Sketch," 352, 354, § 1.

[3] Rivers, "Chapter," 60, 61, § 7.

[4] Rivers, "Sketch," 341; Rivers, "Chapter," 61, § 19; "Collections," I., 111; "North Carolina Colonial Records," I., 706; Sainsbury's "Calendars," III., No. 606.

[5] Stokes, 163, 234, 235; "Collections," II., 263.

[6] "Collections," I., 154, 182; II., 172, 176, 177, 208; Rivers, "Sketch," 341; Rivers, "Chapter," 66, § 34, 76; Stokes, 164.

[7] "Statutes," III., 447, 481, 511; IV., 223, 248, 278; "Collections," II., 177; "New York Colonial Documents," VIII., 347.

The Council was intended by the Proprietors to be the governing body of the colony. Hence, the provisions of the Fundamental Constitutions relating thereto were very elaborate. They provided that the Council should consist of fifty members, comprising the eight Proprietors and the forty-two councillors connected with the seven supreme courts.[1] Monthly meetings were to be held, at which controversies were to be decided, questions relating to war and peace settled, treaties drawn up and bills prepared for the consideration of Parliament, the popular legislative body. Thirteen should form a quorum, but no business should be transacted unless one Proprietor or a specially authorized deputy were present.[2] But this system was never put into practice, and the form of the Council subsequently adopted was a development of the form temporarily prescribed in 1670 and 1671. According to these temporary laws promulgated by the Proprietors, the Council consisted of ten members, five appointed by the Proprietors and five by the freemen of the colony, who, with the Governor, ruled the colony in every particular.[3] In 1671, the Council was increased to fifteen members, the additional five consisting of the five eldest of the nobility.[4] In 1690, the number was reduced to seven, one being appointed by each of the Proprietors (except the Palatine, who appointed the Governor).[5] In 1719, six months before the Revolution, the number was increased to twelve, appointed by the Proprietors jointly.[6] Throughout the royal period the number remained at twelve,

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[1] See page 27.

[2] Fundamental Constitutions, §§ 28, 50-60.

[3] Sainsbury's "Calendars," III., Nos. 86, 213, 514, 688, 721; Rivers, "Sketch," 347. The Councillors representing the freemen were chosen by the Assembly after 1672. Rivers, "Sketch," 352, § 1; 366, § 3; "Collections," I., 115.

[4] Rivers, "Sketch," 366, § 3; 369, § 3; 352, § 1; Sainsbury's "Calendars," III., Nos. 514, 867.

[5] Rivers, "Chapter," 61, § 9; 67, § 43; "Collections," I., 165.

[6] "Collections," I., 170; Carroll, II., 158; "North Carolina Colonial Records," II., p. vi.

all being appointed by the King through the Board of Trade, though generally nominated by the Governor from substantial men in the colony.[1] Appointments were made for an indefinite period of time, and could be revoked at pleasure.[2] The King generally appointed a new set of councillors with each newly commissioned Governor,[3] and Governors were allowed to suspend councillors for cause, immediate notice of which, however, was expected to be sent to the Board of Trade.[4] Vacancies were variously filled at different times. Before 1690, the eldest councillor elected by the Assembly became a proprietary councillor in case of vacancy. Under Sothell, vacancies were filled by the remaining members of the Council. From 1691 to 1721, vacancies were filled by the Governor with the consent of the Council. After 1721, vacancies were temporarily filled by the Governor until the wishes of the King were made known, and generally the Governor's appointee was confirmed.[5]

Meetings were held irregularly at the call of the Governor.[6] A quorum consisted of three, but the Governors were always requested to do nothing, except in cases of extraordinary emergency, unless seven were present.[7] As the members served without pay, and during the earlier period at least

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[1] "Collections," I., 284; II., 145, 146, 176, 274, 295; III., 321; Rivers, "Chapter," 18, 68-70; Carroll, II., 220; Stokes, 237.

[2] "Collections," I., 88, 109, 111, 118, 185; Rivers, "Chapter," 61, § 6.

[3] The new councillors took the various oaths at the first meeting they attended. "Collections," I., 87; II., 176; Stokes, 151, 152, 177, 237.

[4] "Collections," I., 88, 109, 161, 165; II., 146, 172, 176; Stokes, 153, 240.

[5] Rivers, "Sketch," 353, 355, 430; "Collections," I., 127; II., 176, 274; III., 321; Rivers, "Chapter," 61, § 10; Sainsbury's "Calendars," III., No. 713, § 9; No. 867, § 4.

[6] "Collections," I., 82; Rivers, "Chapter," 65, § 33. The Surveyor-General of the Customs and the Superintendent of Indian Affairs were allowed seats after 1720. Stokes, 237; Carroll, II., 220; "Collections," II., 126.

[7] "Collections," II., 172, 176; Rivers, "Chapter," 71; Stokes, 153.

were compelled to pay for fire, light and contingent charges,[1] it is not surprising that the meetings were poorly attended. In fact, it was often impossible to obtain a quorum, although the Governor had power to suspend members absenting themselves without cause.[2] Under the Proprietors, the Governor being the Palatine's deputy, was entitled to a seat and vote as a member of the Council, a right he generally exercised. During the royal period, however, the Governor was not a member of the Council and was not entitled to a seat in it, although he continued to sit as a member for several year after the Revolution of 1719.[3]

The duties of the Council were advisory, legislative and judicial. In the early history of the colony all legal questions came before it for decision; but with the growth of the colony and the establishment of regular judicial tribunals it relinquished the greater part of its legal business to the courts, retaining only the right to act as a court of appeals and a court of chancery.[4] Its legislative functions were greater. At first, its ordinances had the force of laws. But after the establishment of a second house, composed of delegates elected by the freemen of the colony, it took the form of an upper house, bearing in some respects a resemblance to the English House of Lords, with which body it has been frequently compared. But by far the greater part of its work consisted in giving advice to the Governor, to whom it supplied the place of a cabinet or privy council.[5] With

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[1] Carroll, II., 155.

[2] Rivers, "Chapter," 70, §§ 11, 13; "Collections," I., 170, 284; II., 176, 304. Shortly after his arrival in South Carolina, Gov. Glen wrote to the Board of Trade that he was unable to obtain a quorum, as one member was sick, four had been in England for several years, two were away on a leave of absence, one was in New York, and two others lived too far away to attend meetings. "Collections," II., 295. See also "Considerations on Certain Political Transactions," 72.

[3] Rivers, "Chapter," 47; "Collections," I., 142; II., 286, 304. See Chalmers' "Opinions," I., 231; Forsyth's "Opinions," 67, 79; "New York Colonial Documents," VI., 40, 41.

[4] See pages 82, 86.

[5] Stokes, 239; Carroll, II., 144.

its consent the Governor summoned and dissolved the Commons House of Assembly, issued proclamations, etc. What could or could not be done without its consent varied greatly at different periods; but, in general, it may be said that nothing of importance could legally be done by the Governor without the consent of the Council first obtained.[1] Copies of all records and votes of the Council were demanded by the Board of Trade; but Governors were known to send home expurgated or illegible copies of the records, or at times none at all.[2]

The Secretary was an official second only to the Governor in importance. He was appointed by the Proprietors until 1720, and by the King after that year.[3] His salary was £40 a year under the Proprietors and £200 under the King.[4] His duties were to keep the records of the Council, record all judicial and ministerial acts of the Governor, write commissions, record land patents, and, in earlier years, to act as Register of Deeds.[5] He, as well as the Governor, was constantly urged to send copies of all records to the Proprietors, and later to the Board of Trade.[6]

The only other colonial officer needing mention here is the Treasurer. Before 1707, he was appointed by the Proprietors, and until 1721 was known as the Receiver. At first, his duties were to collect fines, receive the quit-rents, pay the expenses of government, and remit the surplus, if any, to the Proprietors.[7] In other words, he acted as the

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[1] "Collections," I., 154, 182; II., 96; Rivers, "Chapter," 67, § 41; 90, § 95.

[2] Rivers, "Chapter," 91; McCulloch, "Miscellaneous Essay," 40, 43, 44, 61; Postlethwayt, I., 426, 467.

[3] "Collections," I., 89, 110; Rivers, "Sketch," 416; Rivers, "Chapter," 62; Carroll, II., 221.

[4] "Collections," I., 155; II., 275; Carroll, II., 155; "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., 255.

[5] "Letter from South Carolina," 27; McCulloch, 39; "Collections," I., 227; II., 177.

[6] Rivers, "Chapter," 78, § 39; "Collections," I., 88, 145, 168.

[7] "Collections," I., 146, 155, 159; "Letter from South Carolina," 27.

fiscal agent of the Proprietors. Until 1707, there was also another Treasurer, appointed by the Assembly, to receive and keep all moneys belonging to the colony.[1] As it seemed unnecessary to have two treasurers in the colony when the work could be performed by one, the Assembly, in 1707, very quietly declared its right to appoint the Receiver to act for the Proprietors and the Assembly jointly,[2] a right, however, questioned by the Proprietors as long as they retained control of the colony.[3] During the royal period, the King appointed a Receiver-General of the Quit-rents,[4] but the colonial Treasurer, who acted as Receiver also, was appointed by the Assembly.[5] His duties were to receive all dues and taxes and to pay out money as directed by the Assembly.[6] In 1771, two joint Treasurers were appointed; in 1776, the treasury department was placed under the care of three commissioners.[7]

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[1] See for example "Statutes," II., 203, § 16.

[2] "Statutes," II., 299. Reiterated in 1707, 1716, 1719 and 1720. See "Statutes," II., 305, § 12; 655, §§ 23, 24; III., 61, § 21; 103.

[3] "Collections," I., 166.

[4] "Collections," II., 275; Carroll, II., 221; Sainsbury's "Calendars," II., 57.

[5] "Statutes," III., 148, § 1; 166, § 21; 197, § 20; 565, § 28; Pownall (2d ed.), 52; Carroll, II., 221; "Collections," II., 303.

[6] "Statutes," II., 351, § 1; 654, § 23; III., 166, § 21; 200, § 20; 565, § 28.

[7] "Statutes," IV., 326, 342.

CHAPTER IV.

The Assembly.

The General Assembly of colonial South Carolina consisted of three branches: the Governor, the Council, and the representatives of the freemen. The charter conferred upon the Proprietors the right to pass laws "with the advice, assent and approbation of the freemen of the province." The Proprietors endeavored to follow this provision literally. In their Fundamental Constitutions they provided for a biennial session of Parliament, which was to consist of the Proprietors, the nobility and one freeman from each colonial precinct. The members were to sit in one room, and each person was to be entitled to one vote. But no bill was to be considered that had not been previously approved by the Grand Council, nor was any act to be binding until it had been approved by the Palatine and three Proprietors or their deputies.[1] The early parliaments were conducted according to this scheme, but they had few acts to approve, since nearly all were passed as ordinances of the Council.[2] The delegates of the freemen were greatly dissatisfied with this meagre share in the government, and ere long a change took place. Parliament no longer ratified or disallowed the legislation of the Council, but framed its own bills upon the latter's *recommendation*, and shortly afterwards gained equal rights with the Council in the initiation of legislation.[3] At about the same time (1689) the Proprietors ordered the Council to levy no taxes without the consent of Parliament,

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[1] Fundamental Constitutions, §§ 51, 71-76.

[2] Rivers, "Sketch," 348, 369; Sainsbury's "Calendars," III., Nos. 213, 612, 692; Carroll, II., 71, 297.

[3] Rivers, "Sketch," 396, 416. See extract from the Journal of the Commons, May 15, 1694, in Winsor's "America," V., 314.

whereupon the latter body not only claimed the sole right to introduce all money bills, but even refused to allow the Council to amend them, in spite of instructions to the contrary from the Proprietors.[1] The name of "Parliament" gave way, in 1691, to that of "Assembly," and the Council assumed for itself the position of the British House of Lords, referring to the delegates of the freemen as the "Lower House." This was bitterly resented by the latter, and was frequently the cause of altercation between the two bodies. The delegates of the freemen were generally known as the "Commons House of Assembly," or simply the "Assembly."[2]

According to the Fundamental Constitutions, each colonial precinct was to be allowed to send one member to the Assembly.[3] Until the colony should be divided into precincts, the Proprietors directed the Assembly to consist of twenty members. They did not represent any particular district, but represented the colony at large and were all elected at Charleston, thus rendering it an easy task for the government to secure the election of its own creatures.[4] With the growth of the colony came a demand for reform.

[1] "Collections," I., 123, 237, 302; Rivers, "Chapter," p. 78, § 35. See extract from the Commons Journal, 1745, in Winsor's "America," V., 334; "Considerations on Certain Transactions," 26, 27, 41; "Answer" to preceding, 24, 30-38.

[2] The Commons objected to the use of the term "Upper House" as early as 1700 and as late as 1775. See Ramsay, I., 52; Carroll, I., 129; Stokes, 28; "Southern Literary Messenger," March, 1845, p. 142; "Historical Magazine," November, 1865, p. 346; Drayton's "Memoirs," II., 12, 13; "Considerations on Certain Political Transactions," 33-46, 78; "Answer" to preceding, 91, 93-99, 110. In 1729, the Board of Trade forbade the use of "Commons House," substituting therefor "Lower House of Assembly." See "Collections," II., 119. This order was quietly ignored.

[3] § 71.

[4] Rivers, "Sketch," 348, 355, 366; Sainsbury's "Calendars," III., Nos. 86, 514; Carroll, II., 148. A picture of the tumultuous election of 1701 at Charleston is given in Crafts, "Pioneers in the Settlement of America," II., 183.

The Proprietors suggested a few changes in 1691,[1] but nothing was done until 1716, when an election act[2] was passed which entirely changed the system of holding elections. For religious purposes the colony had been divided into parishes in 1706, and the election act provided for the election of members of the Assembly by parishes, each parish being allowed a certain number of representatives, varying according to population. A supplementary act was passed the following year,[3] and an Assembly elected in accordance with the new act. But the Proprietors disallowed both acts,[4] whereupon another act was passed in 1719, similar to the preceding,[5] which, although disallowed,[6] was nevertheless declared by the Assembly, after the Revolution of 1719, to be still in force.[7] In 1721, a new act was passed, substantially the same as the preceding, which remained in force, with slight changes in 1745 and 1759, until the outbreak of the American Revolution.[8] As it was a prerogative of the Crown to grant representation in the colonial Legislatures, the Board of Trade in 1730 disallowed the act of 1721.[9] No attention, however, was paid to the disallowance. By the election act of 1716, the number of members of Assembly was placed at thirty, increased to thirty-six by the act of 1719. With the erection of new parishes and the division of old, the number, by 1775, had been increased to forty-eight, very unequally distributed.[10] Throughout the entire colonial period there was a property qualification for members of the

[1] "North Carolina Colonial Records," I., 377.

[2] "Statutes," II., 683-691.

[3] "Statutes," III., 2-4.

[4] "Collections," I., 167, 171, 190; "Statutes," III., 31, 69.

[5] "Statutes," III., 50-55. [6] "Collections," I., 171.

[7] February 12, 1720, "Statutes," III., 103.

[8] "Statutes," III., 103, 135-140.

[9] See Chalmers' "Opinions," I., 294; "Collections," II., 191, 193, 194, 305; III., 121; Story, § 184; "New York Colonial Documents," VII., 946; "New Jersey Colonial Documents," IX., 637-638.

[10] Representation was confined to parishes alone throughout the entire colonial period.

Assembly. Under the Proprietors it consisted of a freehold of five hundred acres of land anywhere.[1] Under the King, it consisted of a freehold of five hundred acres of land in South Carolina and twenty slaves,[2] or other property to the value of £1,000 proclamation money; moreover, a member must be a natural-born subject of Great Britain or her colonies, or naturalized by act of the British Parliament, twenty-one years of age and a resident of South Carolina for the preceding twelve months.[3]

According to the Fundamental Constitutions, the Assembly was to meet upon the first Monday of November in alternate years, without special summons; extra sessions could be called by the Palatine's court on forty days' notice.[4] This arrangement was followed in the early years of the colony, but after the reorganization of the government in 1691 Governors were allowed to summon Assemblies at will.[5] Writs for the election of members were issued by the Governor by and with the advice and consent of the Council.[6] They were followed by a proclamation, dated and signed by the Governor, summoning the Assembly to meet at a certain time and place for the transaction of business.[7] The members met at the appointed time[8] and place, signed the Declaration against Transubstantiation, took the oaths of Allegi-

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[1] Fundamental Constitutions, § 72; Rivers, "Sketch," 355; Dalcho, "An Historical Account of the Protestant Episcopal Church in South Carolina," 16.

[2] Ten until 1745.

[3] These provisions varied slightly at different times. See "Statutes," II., 689, § 20; III., 3, §§ 3, 4, 6; 52, § 9; 137, § 8; 657, § 2; IV., 99, § 3; 356; Chalmers' "Opinions," I., 268, 271-276; "New York Colonial Documents," VII., 946.

[4] § 73. Sainsbury's "Calendars," III., No. 514.

[5] Rivers, "Sketch," 366, § 2; Rivers, "Chapter," 63, § 20; "Collections," II., 172; Weston, 202.

[6] Rivers, "Chapter," 63, § 20; "Collections," II., 304; Stokes, 154; "Statutes," II., 687, § 15.

[7] See "Collections," II., 96.

[8] Generally at ten o'clock in the morning, Porcher's "Memoir of General Christopher Gadsden," p. 4.

ance and Supremacy, declared that they possessed the necessary qualifications,[1] organized and sent two members to the Governor to deliver their message to him. This was accepted, and a reply promised, which was sent later.[2] The Speaker was chosen by the House, but was approved by the Governor, generally at the time of delivering his first speech to them.[3] The Clerk was theoretically appointed by the Governor, although the custom was for the Assembly to nominate and the Governor to approve or refuse.[4] A quorum was early fixed at a majority of the members. When the number of members was increased to thirty-six in 1719 a quorum was fixed at nineteen, and it remained at that figure until the close of the colonial period. Seven could meet, choose a chairman and adjourn or summon absent members to appear. Less than seven were adjourned by the Governor and Council to a stated day.[5] The statutes of 1685 were passed by only seven members, the remaining thirteen having been expelled by the Governor for refusing to acknowledge the validity of the Fundamental Constitutions.[6]

The procedure and customs of the English House of Commons were imitated by the Assembly as far as pos-

[1] For provisions respecting oaths see "Statutes," II., 691, § 28; III., 4, § 5; 53, § 10; 55, § 20; 137, § 9; 140, § 19; 657, § 3; 692, § 3; IV., 100, §§ 4, 5, 7; "Collections," I., 87; Stokes, 154.

[2] "Collections," I., 290; II., 97, 98. See, for example, the "South Carolina and American General Gazette," December 13, 1769, pp. 1 and 3; Carroll, II., 103.

[3] "Collections," II., 119; Carroll, I., 228; II., 166, 442; Weston, 201; "Letter from South Carolina," 19.

[4] "Collections," II., 119, 273. See also I., 134, 247, 248, 249; II., 128; III., 301; Chalmers' "Revolt," II., 170, 175, 192; Carroll, II., 221. Gov. Johnson, in 1730, allowed the Assembly to appoint its own clerk. Chalmers' "Revolt," II., 169.

[5] Fundamental Constitutions, § 78; "Statutes," II., 80; 605, §§ 3, 4; 691, §§ 26, 27; III., 55, §§ 18, 19; 139, §§ 17, 18. Glen thought the number too high. "Collections," II., 305. De Brahm is in error in stating it to be thirteen. See Weston, 201.

[6] "North Carolina Colonial Records," II., 842-852.

sible.[1] After the early period, all bills originated in the House of Assembly.[2] There the bill was referred to the appropriate committee, which, in due time, reported to the House. The bill was read twice and then sent to the Council by two of its members. The Council read it twice and returned it by the Master in Chancery, with amendments if any. The Assembly then read it a third time and again sent it to the Council. If the latter passed it, it was again returned to the Assembly, and the Clerk was ordered to have it engrossed. In case of disagreement between the two branches, a joint committee was appointed to bring in a compromise bill or to bring about an understanding between the two branches. At the close of the session, the Governor, Council and Assembly met in the council chamber. The Speaker read the titles of the bills agreed upon by the two branches and presented them to the Governor for approval or disapproval. If he disapproved, his veto was final.[3] If he approved, the bill was signed by himself and, after 1719, by the Speaker, when it became a law.[4] This is the reason why all acts passed during a session of the Assembly bear the same date. Under the Proprietors the bill did not become a law until the signatures of the Governor and at least three Councillors had been obtained. The enacting clause varied greatly in wording during the history of the colony, although the general idea remained the same. In the earlier years the clauses mention the Palatine and Proprietors, with the advice and consent of the Commons or General Assembly; in the later, the three departments of the Legislature are mentioned,—Governor, Council, and Assembly.[5]

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[1] Stokes, 242; "Statutes," III., 53, § 12; 137, § 11; "Collections," I., 289, 305; Carroll, I., 298; "Letter from South Carolina," 19.

[2] See "Considerations on Certain Political Transactions," 46.

[3] Stokes, 156; "Collections," II., 172.

[4] Fundamental Constitutions, § 76; Rivers, "Sketch," 348; Rivers, "Chapter," 64, § 27; "Letter from South Carolina," 20; "Considerations upon Certain Political Transactions," 46, 47.

[5] The various changes are best shown in the acts passed in the years 1685, 1690, 1716, 1721, 1726, 1731 and 1775.

The Assembly was allowed to pass no act repugnant to the laws of England. A provision to this effect had been inserted in the charter to the Proprietors, and was repeated in the commissions to the Governors.[1] The Proprietors forbade the Assembly to pass acts diminishing or altering any powers granted them by the charter.[2] Furthermore, the Governors were instructed, after 1720, to approve no private acts or any acts affecting the rights of the Crown unless they contained a clause suspending the effect thereof until the pleasure of the King were known.[3] The question whether or not an act were repugnant to the laws of England was settled by the King in council. Copies of all bills passed and records of all meetings held were demanded by the Proprietors, or King, after 1720, for approval, an instruction generally disregarded by all colonial officials.[4] Prior to 1720, the Assembly was responsible to the Proprietors alone, and the Crown punished the latter for approving improper legislation, rather than the former for indulging in it.[5] All acts were supposed to be sent to the Proprietors for approval immediately after passage, and all expired at the end of two years unless within that time they had been approved. Hence, the Assembly in the seventeenth century was accustomed to pass acts for such short periods of time that they must necessarily expire before the Proprietors would have an opportunity to disallow them.[6] During the

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[1] Rivers, "Sketch," 336; "Collections," I., 131; Stokes, 155; Carroll, II., 220.

[2] "Collections," I., 131.

[3] Rivers, "Chapter," 71, 72; "Collections," II., 177; "New Jersey Colonial Documents," VIII., Pt. I., 28, 35. .This suspending clause was rarely inserted, however. Pownall (2nd ed.), 45.

[4] Fundamental Constitutions, § 56; "Collections," I., 87, 131, 142, 160, 161, 165, 170; II., 177; Rivers, "Chapter," 78, § 40; McCulloch, "Miscellaneous Essay," 38, 39; "Representation of the Board of Trade," p. 4; Postlethwayt, I., 462.

[5] "Collections," I., 207; II., 250; "North Carolina Colonial Records," II., 143.

[6] Rivers, "Chapter," 65, §§ 27, 29; "Collections," I., 156, 168; "North Carolina Colonial Records," II., 136; "Statutes," II., 3, 139; "Representation of the Board of Trade," p. 5.

royal period a similar policy was pursued. All acts passed by the Assembly were sent to the Board of Trade within three months after their passage and continued in force for eighteen months, unless sooner disallowed by the Crown. If not definitely allowed before the end of that time, they ceased to continue in force. Acts once disallowed by the King could not be re-enacted without his consent first obtained.[1] The veto power of the Proprietors and King was used with the greatest freedom.

The Assembly was summoned, prorogued and dissolved by the Governor.[2] The departure or death of a Governor did not dissolve the Assembly, nor, after 1696, did the death of the King determine an Assembly until six months had passed after notification given of his death.[3] The Assembly could only adjourn from day to day.[4] The Fundamental Constitutions called for biennial sessions of Parliament, and the life of an Assembly throughout the greater part of the colonial period remained at two years, unless sooner dissolved by the Governor,[5] although a session was generally held annually.[6] The Assembly met at Charleston,[7] the capi-

[1] Rivers, "Chapter," 73, §§ 19, 20; 77, § 34; "Collections," II., 172, 177; Stokes, 156; Weston, 202; Chalmers' "Opinions," I., 362.

[2] See Fundamental Constitutions, § 73; Rivers, "Chapter," 65, § 30; "Collections," I., 154, 289; II., 172; Stokes, 156, 242; "Statutes," II., 605, § 2. The Governor could prorogue or dissolve it even before it met. Chalmers' "Opinions," I., 232, 270, 271.

[3] Chalmers' "Opinions," I., 245, 247, 255; II., 2; "Statutes," IV., 149, 150. See 7 and 8 W. III., c. 27, § 21; 1 Anne, St. I., c. 8, §§ 2-6; 6 Anne, c. 7, § 8; 1 Geo. II., St. I., c. 5, § 2; 1 Geo. II., St. II., c. 23, § 7.

[4] Stokes, 242; Rivers, "Chapter," 77, § 35; "Collections," II., 176.

[5] Fundamental Constitutions, § 73; "Statutes," II., 80; III., 692. From 1721 to 1745, the period was three years. "Statutes," III., 140, § 21; Carroll, II., 220. From 1745 to 1747, it was one year. "Statutes," III., 657, § 5. Stokes probably had this last period in mind when he stated that elections were annual. Stokes, 242.

[6] "Statutes," II., 80; III., 140; Weston, 202. But the colonists had no right to "demand" annual sessions. See Chalmers' "Opinions," 188-189, 243; "New York Colonial Documents," VII., 946.

[7] A summons to meet at Beaufort in 1772 was resolved to be oppressive. See "Answer to Certain Political Considerations," 64, 72, 74; Fraser's "Reminiscences," 99.

tal of the colony, in hired apartments, until 1755, when a State House was completed.[1] Charleston remained the capital of South Carolina until 1787,[2] when, in consequence of the growth of the interior, a town was laid out in the central part of the State for a capital, and at this place, Columbia, the Assembly of South Carolina has since sat.

[1] "Statutes," III., 244, 264, 317, 336, 393, 446, 482, 511, 750; IV., 59; Weston, 195; Shecut's "Medical and Philosophical Essays," 20. None was built in accordance with the act of 1712, "Statutes," II., 378.

[2] "Statutes," IV., 751.

CHAPTER V.

The Land System.

South Carolina lies between 32° and 35° 12′ north latitude and 78° 30′ and 83° 30′ longitude west of Greenwich. In shape it strongly reminds one of an isosceles triangle, having as the equal sides the boundary lines on the north and southwest, with the coast as the base line. The area has been variously estimated, from 24,080 square miles by Ramsay in 1808, to 34,000 square miles by the Federal government in the census of 1870.

The State may be divided into seven regions, fairly well marked and parallel to one another. The first, and the one which is of most interest to us, is the Coast Region, which includes the coast and the salt marshes bordering upon the sea. From Winyaw Bay to North Carolina there are no islands, the coast being a smooth, hard beach. South of Winyaw Bay the shore is lined with islands; those between Winyaw Bay and Charleston harbor being numerous, low and small, while those south of Charleston are much larger. The principal products of the region to-day are corn, cotton, small grain, rice and sweet potatoes. The early settlers paid very little attention to agriculture, but exported pearl and pot ashes, skins, naval stores, etc. Rice was introduced in 1693, and has been a staple product ever since. Indigo was introduced in 1742 and soon became an important article of export. Very little, however, has been produced since 1800 and almost none since 1850. Indian corn was at first neglected; it became a staple article of export about 1740. Cotton is mentioned as early as 1664, but very little was exported prior to the Revolution. The Lower Pine Belt or Savannah Region includes the territory for fifty miles inland parallel to the Coast Region, containing in all about ten

thousand square miles. Fresh water rivers and swamps abound. The land is practically a plain, rolling slightly along the river banks. The average slope is about three and a half feet per mile. The Upper Pine Belt is generally referred to as the middle country; it lies from one hundred and thirty to two hundred and fifty feet above the sea level, and extends across the State, comprising generally the counties of Barnwell, Orangeburgh, Sumter, Darlington, Marlboro' and Marion, with parts of Hampton and Colleton, and containing about six thousand square miles. The land is level and rolling, and rises the more rapidly in the west. The lakes are numerous, but small, and are located chiefly in the swamps, which cover about one-sixth the area of the district. The slope of the Upper Pine Belt is gradual. North of it is an irregular line of high hills two or three hundred feet higher than the Pine Belt Region. This is known as the Red Hill Region, and includes the hills from Aiken to Sumter counties, some sixteen hundred miles in extent. East of the Santee the region is not continuous. The climate is dryer and more bracing than in the lower region. Just above the Red Hills are the Sand Hills. This region includes the greater part of the counties of Aiken, Lexington, Richland, Kershaw and Chesterfield, with an area of about twenty-five hundred square miles. The hills rise from the Savannah river to a plateau which falls at the Congaree and Wateree rivers. The region west of the Congaree is more elevated than that east of the Wateree. The Piedmont Region includes nearly all the northern part of the State, and is known as the "upper country," having an area of about ten thousand square miles. The elevations vary from two to nine hundred feet in height. There is a general rise of three hundred and fifty feet from the south to the north. The rivers furnish excellent water power, and quarries of granite and slate abound, while the precious metals are to be found in various parts of the region. The Alpine Region includes the extreme northwestern part of the State, having an area of twelve hundred square miles. The land

is rolling table-land and mountainous, containing gold, copper and other metals, none of which have been extensively mined.[1]

According to the Fundamental Constitutions[2] the territory was to be divided into counties. Each county, which contained three hundred and eighty-four thousand acres, was to be divided into eight seigniories, eight baronies and twenty-four colonies. Each Proprietor was to receive one seigniory, each barony was to be divided between one Landgrave and two Cassiques, and the colonies were to be settled by the common people. Counties were to be laid out twelve at a time, and after they had become sufficiently well settled another group of twelve was to be laid out. The Landgraves and Cassiques were to be appointed by the Proprietors and were to form an hereditary nobility, whose land was to be inalienable. Any settler holding between three and twelve thousand acres of land could have his holding declared a manor, which was alienable. But this system was never carried into effect, although several patents were granted to Landgraves and Cassiques.[3] In 1682, South Carolina was divided into three counties, to which a fourth was added in the early part of the eighteenth century. These county divisions, however, played no part in the history of the colony, and were practically obsolete long before 1775.[4]

The first colonists landed at Port Royal in accordance with the expressed wishes of the Proprietors, but a month later moved farther north, settling on the southern side of Ashley River near its mouth, and giving their settlement the name of Charles Towne.[5] In a few years, however, the settlers

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[1] See "South Carolina Agricultural Report," pp. 1-200.

[2] §§ 3-6, 9-19.

[3] Sainsbury's "Calendars," III., Nos. 492, 721; IV., Nos. 584, 590.

[4] See "Collections," I., 82; Rivers, "Chapter," 63; Carroll, II., 409, 445; "Statutes," III., 370; IV., 262-264; "North Carolina Colonial Records," I., 377.

[5] Sainsbury's "Calendars," III., Nos. 86-90, 105, 106, 124, 163, 191, 255. Letters describing the voyage are given in full in "Charleston Year Book," 1886, 241-279.

moved over to the neck of land opposite, known as Oyster Point, which could be more easily defended in case of attack, and possessed better deep water facilities, and old Charles Towne was soon deserted.[1] April 23, 1671, the Council voted to lay out three colonies: Stono, to the west of Charles Towne, James Towne, on James Island, and Oyster Point, mentioned above.[2] Stono was settled by emigrants from the West Indies, James Towne by nineteen Dutch families who had recently arrived from New York.[3] Others followed them from New York and from Holland, but they were very soon scattered and their town deserted.

Aside from the English emigrants from the West Indies, the largest accession in the seventeenth century came from France. The persecution of the French Protestants by Louis XIV. drove the Huguenots from their native land. They fled to England, Holland, Germany, and especially to America. Of those who sought refuge in England, many were transported to the colonies at the expense of the Crown.[4] But by far the largest number emigrated immediately after the Revocation of the Edict of Nantes in 1685, settling principally in New York, Philadelphia, and Charleston and vicinity: Orange Quarter on Cooper river, Strawberry Ferry, Jamestown on Santee river, and St. James, Goose Creek.[5]

Between 1700 and 1730, very few emigrants settled in South Carolina. The limits of the colony then were the

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[1] See "Charleston Year Book," 1883, 463; "Collections," I., 102; Rivers, "Sketch," 393, 394; Mills, "Statistics of South Carolina," 385; Drayton, "View of South Carolina," 200.

[2] See the entry in "Charleston Year Book," 1883, 463.

[3] "Charleston Year Book," 1883, 379; Sainsbury's "Calendars," III., Nos. 428, 432, 664, 746; Brodhead, "New York," II., 176.

[4] Three of the first settlers in 1670 had been French refugees in England. See "Huguenot Society of America, Proceedings," No. 1, pp. 34, 40; "Charleston Year Book," 1885, 298. Two shiploads were transported to the Carolinas in 1679. Rivers, "Sketch," 392.

[5] See "Huguenot Society," as above, 31-36. There were four hundred and thirty-eight French in South Carolina in 1698. See Rivers, "Sketch," 447; "Collections," II., 198.

Santee on the north, the Edisto on the south, and Dorchester, twenty miles inland from Charleston. No serious attempts to settle the interior of the colony were made until the surrender of the colony to the King.[1] In 1729 at the suggestion of Gov. Johnson, the King ordered eleven townships to be laid out: two each on the Altamaha, Savannah and Santee, and one each on the Wateree, Black, Waccamaw, Pedee and Edisto rivers. Each township was to contain twenty thousand acres, was to be laid out in the form of a square, and was to contain a town in which the settlers were to receive building lots in addition to their fields outside.[2] The Assembly appropriated £5,000 currency a year for seven years, to be spent in laying out these townships and in purchasing tools for and paying the passage of intending settlers.[3] These townships were finally laid out as follows, not all in squares and few containing the required number of acres: Kingston, on the Waccamaw; Queensborough (never settled), at the union of the Great and Little Pedee; Williamsburg, on the Black; Fredericksburg (Kershaw county), on the Wateree; Amelia, at the union of the Congaree and Wateree; Saxe-Gotha, opposite Columbia; Orangeburg, on the Edisto; Purysburg, on the Savannah; and New Windsor, opposite Augusta, Georgia. The two on the Altamaha were never laid out. Perhaps the King, in ordering these townships to be laid out, was influenced by persons in England who were desirous of colonizing tracts of land in the New World.[4] As early as 1722, Purry, a Swiss, had petitioned for

[1] The efforts of 1721-1723 were directed solely towards establishing frontier towns on the Savannah river. See "Statutes," III., 123, §§ 4, 9; 177-178; 180, § 2; 182, § 15. Aside from the attempt in 1696, "Statutes," II., 124, which was never carried out, "Collections," III., 305, the inducements offered intending settlers consisted principally in freedom from quit-rents for a term of years after settling.

[2] "Collections," II., 122, 177; Carroll, II., 123-125.

[3] "Collections," I., 307; "Statutes," III., 301, § 25; 340, § 6; 366.

[4] A colonization society was suggested in 1730. See "Collections," II., 127, 128.

and received a grant of land on the Savannah whereon he might settle a colony of Swiss. In 1730, a new grant of sixty thousand acres was made to him by the King under certain conditions, and the Assembly guaranteed to support three hundred persons for one year and to supply them with tools and utensils. In December, 1732, Purysburg, above mentioned and named in his honor, was settled.[1] In the same year, 1732, the territory south of the Savannah, which had hitherto been unsettled, was set off as an independent province under the name of Georgia. South Carolina ceased to be a frontier colony, and from that time on the colony grew rapidly.

The interior townships were quickly settled. £5000 a year proved to be insufficient to furnish emigrants with tools and to provide for their support. From 1735 to 1766, the money arising from the duty on negroes was appropriated to their use. In 1740, in addition to conveyance and tools, a cow and calf were promised to every group of five persons settling together in a frontier township within five years. In 1761, the method of granting the bounty was changed, but a bounty in some form was offered all emigrants until the breaking out of the American Revolution.[2] After the Swiss came the Scotch-Irish. A small colony of Scots had settled at Port Royal, in 1684, under Lord Cardross, but it had been broken up by the Spaniards a year or two later.[3] In 1733, a large colony of Scots settled in Kingston and Williamsburg townships, the first to be laid out after Purysburg. They were followed by another band of colonists in 1746, after the

[1] "Collections," I., 196, 233, 248, 273; II., 123, 125, 127, 131, 160, 166, 179; III., 317; Chalmers' "Opinions," I., 161, 162; Forsyth's "Opinions," 152; "Statutes," III., 340, § 6; Carroll, II., 126; Mills, 369, 370.

[2] "Statutes," III., 409, § 1; 559, §§ 6, 9; IV., 39, 153, 309. For several curious methods of granting aid, see "Statutes," III., 591; 593; 674, § 7; 741, §§ 6-8; 781; IV., 5, 6.

[3] "Collections," I., 92, 109, 124; II., 273. Howe, "Presbyterian Church in South Carolina," I., 78-84, 117, 118. A few Scotch had settled on Edisto Island in 1700. See Mills, 471; Ramsay, II., 540.

battle of Culloden, for whom the High Hills of Santee were reserved.[1] Following the Scots came the Welch from Pennsylvania and Delaware. They arrived in 1735, and occupied the greater part of Marion and Marlboro' counties.[2] But by far the greater number of emigrants came from Germany. The majority of Germans emigrating to America previous to 1728 had settled in Pennsylvania, but the short-sighted policy adopted by the Pennsylvania Proprietors in that year caused future emigrants to settle in South Carolina, where so many inducements were offered them. They settled first in Orangeburg township, and later in New Windsor, Amelia, Saxe-Gotha, and Fredericksburg townships, until, by 1775, they had spread themselves over the entire western portion of the colony.[3] In 1761, two more townships were laid out on the upper Savannah on the same plan as those of 1731: Londonderry, settled by Germans, five or six hundred in number, and Hillsborough, containing the town of New Bordeaux, settled by Huguenots, numbering two hundred and twelve.[4] A new element began to enter South Carolina about the year 1750. The French and Indian War caused the settlers on the frontiers of Pennsyl-

[1] Gregg, "Old Cheraws," 43; "Agricultural Report," 382, 485; Carroll, I., 324, 380; Mills, 579-581, 740, 765; Howe, I., 212. Sixteen hundred more settled in the colony between 1763 and 1773. See Mills, 489; Baird, "Religion in America," 75. These were, in all cases, Scotch Protestant Irish and not Catholic Irish, as stated in McGee, "Irish Settlers in America," 26.

[2] Gregg, 46-53; Mills, 471, 638; "Agricultural Report," 382, 485; Ramsay, II., 540; Furman, "Charleston Association," 61.

[3] "Collections," I., 297, 306, 307; II., 120, 122, 186, 290, 293; Bernheim, "German Settlements in the Carolinas," 42, 43, 128, 161-170, 224, 233, 234; Mills, 611, 614, 639, 656, 662, 692; "Statutes," IX., 95.

[4] See "Agricultural Report," 383; Carroll, II., 485-488; Bernheim, 161-165; Redington's "Calendars," I., Nos. 1445, 1680, 1683. The documents relating to the New Bordeaux settlement are given in full, preceded by a brief sketch by W. Noel Sainsbury, in "Collections," II., 77-103. See also Moragne's "Address delivered at New Bordeaux, November 15, 1854"; Mills, 348; "Agricultural Report," 383, 425.

vania, Maryland and Virginia to seek new lands in which to dwell. The upper lands of the Carolinas were opened by treaty with the Cherokees, in 1755, and the emigrants naturally entered these fertile lands in large numbers. They settled by families or in groups of two or three families, and retained their former communication and trade relations with Philadelphia, Baltimore and Richmond, instead of forming new relations with Charleston.[1]

The Proprietors earnestly desired the colonists to live in communities for the purpose of mutual protection and trade,[2] but the low, marshy lands were so much better fitted for agriculture on a large scale than for town building that the few towns which were laid out were very soon deserted. In 1775, there were but three towns of any size in South Carolina, and those were seaport towns. Chief of these was Charleston, which was the seat of government and the most flourishing town in the South. The land on which the town was built was low and flat, containing several little ponds and creeks, many of which were not filled up until after the Revolution. The streets were broad and uniform, intersecting one another at right angles. Owing to the unhealthiness of the surrounding country, the wealthy planters were in the habit of resorting to Charleston during the winter months. Consequently Charleston became the social center of the colony. Society there was gay and brilliant. Luxury and comfort abounded. The houses of the wealthy planters were generally built of brick and sumptuously furnished. The season was spent in assemblies, balls, dinners, parties, concerts, theatricals, sports, gaming and extreme dissipation.

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[1] "Agricultural Report," 383, 425, 615, 616; Mills, 489, 496-498, 512, 536, 537, 571, 572, 585, 586, 595, 604, 622, 629, 639, 671, 692, 724, 740, 754, 771. An excellent account of the settlement of the "back country" is given in Gregg, "Old Cheraws," 126-161.

[2] "Collections," I., 112, 142; II., 172; Rivers, "Sketch," 358, § 16; 387, § 1; Rivers, "Chapter," 48; Sainsbury's "Calendars," III., Nos. 86, 492, 630, 688, 918.

The history of colonial Charleston is the history of the wealthy aristocracy of South Carolina.[1]

The second town of importance was Port Royal, where the French had settled under Ribault in 1562 and where the Proprietors had wished the colonists to settle in 1670. During the Spanish wars, a fort was erected at Port Royal and named Fort Beauford, in honor of one of the Proprietors. After the close of the Yemassee war, in 1717, a town slowly grew up around the fort, and in 1795 it contained two hundred and fifty inhabitants.[2] The third town, Georgetown,[3] was settled at about the same time as Port Royal, with which town it has kept pace ever since, the two being about equal in population in 1775.[4] Besides these three towns, there were a few inland villages which may be mentioned in passing. Prominent among these was Dorchester, on the Ashley river, some twenty miles from Charleston. It was settled by a Puritan colony in 1696, and contained some three hundred and fifty inhabitants in 1707, with a Congregational church and a fort. It began to decline with the removal of the Congregationalists to Georgia, in 1752, and the inhabitants were few in numbers in 1775. The place is now in ruins.[5] Wilton, also called New London, near the mouth of the Edisto river, is mentioned as early as 1683, and contained eighty houses in 1708.[6] Other villages were Childsbury, Edmundsbury,

[1] Carroll, I., 502; II., 484; Mills, 392; Rochefoucauld, "Travels," I., 158, 556; De Crèvecœur, "Letters from an American Farmer," I., 214, 215. An excellent summary is given in Lodge's "Short History of the English Colonies in America," 184, 185.

[2] See "Collections," I., 145, 160, 181, 182; III., 289; Carroll, I., 324; II., 490; Drayton's "View," 200, 208; Mills, 365-369, 453; "Agricultural Report," 663-667; Winterbotham's "America," III., 248.

[3] Also referred to as Winyaw, Winyah, Winyeau, Wyneah, Wynyeau and Wingate.

[4] "Collections," II., 173; "Agricultural Report," 684-7; Mills, 556-562; Carroll, II., 490.

[5] See Mrs. Poyas, "Our Forefathers," 85-88; Carroll, II., 452; Mills, 507; "Harper's Magazine," December, 1875, p. 12; "Charleston Year Book," 1883, 386.

[6] Dalcho, 16; Mills, 507; Howe, I., 163; Carroll, II., 453.

and Jacksonborough.[1] Towns were also laid out in the interior townships, but none of them contained more than a few inhabitants. A few houses, inhabited principally by Indian traders, were clustered around the frontier forts, but aside from these there was, in 1775, no town inland worthy of the name, with the single exception of Camden, which had been settled by Quakers from Ireland in 1750.[2] In fact, the whole interior was without a name, and portions were referred to in the constitutions of the State adopted in 1776 and in 1778, as the "District between the Broad and the Catawba," the "District east of the Wateree," the "District between the Savannah and the north fork of the Edisto," the "District between the Broad and the Saluda," and the "New Acquisition."[3]

The title to the lands lay originally in the Indians, and according to the view of the day the Crown had the sole right to purchase this title from them.[4] The Proprietors, on a few occasions, purchased land of the Indians, but, as a rule, they seemed to think that the grant from the King was sufficient.[5] It was their intention to retain the fee in themselves and to grant the use of the land to others, reserving a small quit-rent only as rental. The amount of the grant and of the quit-rent varied at different periods in the history of the colony. Before 1696, each settler was granted one hundred acres of land for himself and for each man-servant brought over by him, at a penny per acre quit-rent.[6] In 1694, the quit-rent was reduced to one shilling sterling per hundred

[1] Mills, 506, and Appendix, 34; Dalcho, 368; Carroll, I., 332; Davis, writing in 1798 (Travels, 61, 67) states that Ashepoo village contained three houses, and Coosawhatchie one. See also Rochefoucauld, I., 592; Carroll, I., 501.

[2] Mills, 586, 590.

[3] 1776, § 11; 1778, § 13. See Moultrie's "Memoirs," 17.

[4] Carroll, I., 490; see Johnson & Graham's Lessee *v.* M'Intosh, 8 Wheaton's Reports, at p. 573.

[5] "Collections," I., 107, 109; "Statutes," II., 583, 584. Generally speaking, the lowlands were not purchased from the Indians, while the uplands were. Ramsay, I., 150.

[6] Rivers, "Sketch," 366, § 4. From 1669 to 1671, the amount of the grant was one hundred and fifty acres. Sainsbury's "Calendars," III., Nos. 86, 918.

acres, at which figure it remained until 1731, when it was raised to the former figure of one penny per acre.[1] Those wishing to purchase land in large quantities could obtain one thousand acres for £20, at an annual quit-rent of ten shillings.[2] The fee of the land was seldom parted with,[3] except in the case of grants to friends, and even then a peppercorn rent was generally reserved.[4]

The method of granting land was extremely simple. The settler, having selected land not already occupied, made application therefor to the Governor, who issued a warrant, signed by himself and three councillors, directing the Surveyor-General to survey the number of acres to which the grantee was entitled. This warrant was taken by the applicant to the Surveyor-General, who surveyed the land and gave a certificate to that effect. This certificate was taken to the Governor, who then gave the grantee a deed of the land granted.[5] This easy method of obtaining land led many

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[1] "Collections," I., 137, 155, 157, 158, 176, 177, 180; II., 89, 91; "North Carolina Colonial Records," I., 390, 554; "Statutes," II., 97, § 2; 102, § 13; 133; 291, § 6; Carroll, II., 125. From 1699 to 1702 the rate was one penny per acre. "Collections," I., 149, 151. For a case of a grant at three shillings per hundred acres, see "Collections," II., 131. The figures given in Grahame's "United States History," II., 150, are entirely inaccurate. Baronies paid £20 a year rent. "Collections," I., 126.

[2] "Collections," I., 158, 178; "North Carolina Colonial Records," I., 694; "Statutes," II., 102, § 14; Carroll, II., 403.

[3] Until 1695, one thousand acres were sold at £50, and from 1702 to 1709, at £20. "Collections," I., 120, 124, 125, 151; Carroll, I., 144; II., 32, 403; "North Carolina Colonial Records," I., 555. Ludwell in 1691 was authorized to sell land in lots of six thousand acres, at five shillings per acre, without rents. "North Carolina Colonial Records," I., 383.

[4] See, for example, "Collections," I., 112, 117, 118, 137, 192; II., 173; III., 308.

[5] "Collections," I., 157; Rivers, "Sketch," 349, 359, 399-403; Carroll, I., 104; II., 32; Blome, "Present State," 159. The Surveyor-General was appointed by the Proprietors, or the King after 1720, and gave security for the faithful performance of the duties of his office. "Collections," I., 98, 156; II., 275; "North Carolina Colonial Records," I., 211; Sainsbury's "Calendars," III., 711; Carroll, I., 61; II., 221, 461. He was paid by fees, regulated by the Assembly. See the "Statutes." The system was practically the same throughout the whole colonial period. The form of the deed is given in "Statutes," II., 96, §§ 1, 2.

speculators to take up large tracts and to avoid the conditions inserted in the deeds.[1] Thereupon the Proprietors, in 1699, forbade grants of more than five hundred acres to be made to any one person, and declared that all lands should escheat unless a settlement was made thereon within four years from the time of the grant.[2] In 1710, the time was reduced to six months, and the Governor was forbidden to grant any land whatever except on special warrant from the Proprietors,—a provision not finally repealed until 1731.[3]

In order to keep track of grantees and to know who were responsible for the payment of quit-rents, the Proprietors established a system of registration. No title to land was allowed to pass until the deed had been duly registered with the Register, several minor regulations being adopted to prevent the fraudulent obtaining possession of land.[4] It proved to be almost impossible to collect the quit-rents. In the early history of the colony only a small percentage of the land granted was under cultivation, and very few consequently were able to pay the rent demanded.[5] On several occasions the Proprietors agreed to receive merchantable commodities in place of money,[6] and upon one occasion they abated three years of rent on condition that the settlers

[1] "Collections," I., 102.

[2] "Collections," I., 149; "North Carolina Colonial Records," I., 555. The Assembly had recognized the evil and, five years before, had passed an act for avoiding grants of land that remained unoccupied for two years, unless the grantee paid quit-rents thereon. "Statutes," II., 79; 102, § 15; 117; 135; Chalmers' "Opinions," II., 44, 100.

[3] "Collections," I., 155, 156, 158, 159, 167, 171, 190, 191, 285; II., 231. Grants as before were allowed from 1713 to 1718. "Collections," I., 162. In 1773, grants of land were again forbidden. "New York Colonial Documents," VIII., 357.

[4] Carroll, II., 32; Rivers, "Sketch," 359, § 22; "Collections," I., 113; "Statutes," II., 97, 100, §§ 1, 8.

[5] The statement in Grahame's "History of the United States," II., 129, that not one acre in a thousand was under cultivation, must be extravagant.

[6] See, for example, the case in 1695. "Collections," I., 124, 136; "Statutes," II., 97, 98.

fortify Charleston.[1] But in spite of this the arrearages amounted to £2000 sterling in 1699, which gradually increased to £9000 in 1729.[2] The King, at the time of the purchase of the colony, very generously remitted the arrearages of quit-rents on condition that provision be made for their payment in the future.[3]

An act was passed by the Assembly, in 1731, which was intended to settle the whole question.[4] The Auditor-General, who had been appointed over all the colonies in 1715,[5] was authorized to open an office in Charleston, where all deeds were to be registered. The registry was to describe lands by metes and bounds, give their location in county and parish, the rents payable, and to trace back the history of the deed to the original grantee. Rents were payable in proclamation money, March 25 of each year, by the persons in whose names the lands stood in the registry. Neglect to pay for five years worked a forfeiture of the lands to the King. In addition to this registry in the office of the Auditor-General was the registry in the colonial registry of deeds. Registers had been appointed in the early history of the colony, but the work was performed by the Surveyor-General or the Colonial Secretary until the close of the colonial period.[6]

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[1] In 1695. See "Statutes," II., 102-104; "Collections," I., 135, 139, 140, 141.

[2] "Collections," I., 148, 155, 167; Carroll, I., 274. At the close of the proprietary period, the quit-rents amounted to about £500 a year. See "New York Colonial Documents," IV., 612; "Report of the Board of Trade to the King," 126.

[3] "Collections," II., 176, 177; Chalmers' "Revolt," II., 169; "Statutes," III., 289; 301, § 23.

[4] "Statutes," III., 289-301. A subsequent act, passed in 1744, was practically a re-affirmation of the act of 1731. "Statutes," III., 633-637.

[5] "Collections," I., 223.

[6] See Fundamental Constitutions, §§ 81-83; Sainsbury's "Calendars," III., Nos. 247, 868, 870; IV., No. 582; "Collections," I., 99, 174; II., 275; Chalmers' "Opinions," I., 164; "Letter to Bern," 27; Carroll, II., 221; "Statutes," II., 4; III., 296, § 18; 416.

CHAPTER VI.

The Parish.

For forty years and more the entire management of colonial affairs was vested in the General Assembly. If a bridge were to be built, a road to be laid out, a public building or fort to be erected, a ferry to be established, creeks to be cleaned, canals to be cut, drains to be dug, pilot boats to be built, buoys to be placed in the harbor, or even local taxes to be raised, an act of the Assembly was passed ordering the same to be done and appointing a commission to supervise the work. Charleston, the only town of any importance in the colony, was governed by the Assembly. The records of the town contain no mention of Aldermen, Council, Selectmen, Mayor or other local governing officials. Centralization was complete; local government was unknown.[1]

In 1704, an act was passed establishing the Church of England in the colony and dividing the colony into parishes, each to contain a church which was to be presided over by an Episcopal clergyman.[2] The plan had reference to religious worship only, and no thought seems to have been entertained of making the parish a local unit of government. But once established, the advantages arising from the parish system became so apparent that very early the parish became the unit of local government in South Carolina. The act of 1704 proving unsatisfactory to the English government, it was repealed,[3] and in 1706 another act was passed nearly identical with the former, with the objectionable clauses

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[1] See the "Statutes"; "Charleston Year Book," 1880, 254; 1881, 326, 332.

[2] "Statutes," II., 236-245.

[3] "Collections," I., 152; "Statutes," II., 281.

omitted or modified.[1] By this act the colony was divided into ten parishes,[2] which, by 1775, had increased, by the division of old parishes or the creation of new out of territory unsettled in 1706, to twenty-four, all having equal rights, duties and privileges.[3]

As the parish was a purely ecclesiastical division organized for the sole purpose of propagating the Episcopal religion, the officers placed over it were naturally only such as were necessary for an ecclesiastical organization: rector, churchwardens, vestrymen, sexton, clerk and register of births, marriages and deaths; and these remained, with the single addition of the overseers of the poor, the only parish officers during the colonial period. The duties of the rector, who was *ex officio* a member of the vestry, remained of an ecclesiastical and religious character throughout the colonial period. All parish business was managed by two churchwardens and seven vestrymen, elected annually on Easter Monday in each parish by such conforming Episcopalians as were either freeholders or taxpayers in the parish. Vacancies arising in the vestry were filled at a special meeting of the parish, while vacancies among the wardens were filled by the vestry. The two bodies deliberated apart and not necessarily at the same time. The vestries held regular quarterly meetings, while the wardens met whenever they chose. Their duties consisted, at first, in paying parochial charges and in keeping all parish property in repair; but with the growth of

[1] "Statutes," II., 283-293. The act of 1706 was not an amendatory act to that of 1704, as several writers seem to think. See further on this point: Carroll, I., 145-158; II., 429-444; De Foe, "Party Tyranny"; "Case of the Protestant Dissenters in Carolina"; "Journal of the House of Lords," XVIII., 130b, 134a, 143b, 144, 151.

[2] The act of 1704 had provided for six parishes only. See also "Statutes," II., 328-330; 687, § 14.

[3] The townships were promised by the King equal rights with the parishes as soon as they contained one hundred families, but the Assembly uniformly neglected to confer such rights until the inhabitants had adopted Episcopacy. See Carroll, I., 297; II., 124, 220; Ramsay, I., 109.

parish functions their duties were greatly increased.[1] The register was annually appointed by the vestry, took the customary oaths, kept records of vestry proceedings and of all births, christenings, marriages and burials.[2] The duties of the clerk were to keep the parish records, and of the sexton to take care of the parish church and cemetery. Both were appointed by the vestry and served during pleasure.[3]

The care of the poor fell to the parishes after 1712. Previous to that time they had been under the care of a close board of five commissioners, appointed in the first instance by the Assembly.[4] After 1712, the vestry of each parish annually appointed a Board of Overseers, consisting of two or more members, who, with the wardens, had the entire charge of the parish poor. A settlement in a parish was gained by a continuous residence there for three months,[5] "as a native, householder, sojourner, apprentice or servant," unless possessing a home in another parish, and great care was taken to prevent paupers, or any who it was feared might become paupers, from obtaining a settlement.[6] Until 1825, there was but one workhouse in South Carolina, and that was built at Charleston about the year 1740.[7] In addition to

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[1] See §§ 2, 20, 21, 22, 23, 27, 28, 30, 31 of the act of 1704; §§ 28, 29, 30, 31, 34, 35, 38, 39 of the act of 1706; "Statutes," II., 368, §§ 6, 7; 397, § 7.

[2] §§ 24, 25 (1704); §§ 32, 33 (1706). The Proprietors had desired to have a register in each seigniory, barony and colony, Fundamental Constitutions, §§ 84, 87; but the rector at Charleston, appointed in 1698, seems to have been the only register prior to 1706. "Statutes," II., 120, 121, 139, 215; "Collections," I., 144.

[3] §§ 28, 29 (1704); §§ 36, 37 (1706); "Statutes," II., 373, § 16.

[4] The earliest act upon the subject was passed in 1694, and is lost. The act of 1696, supplemented by the act of 1698, continued in force until 1712. "Statutes," II., 78, 116, 135. For the act of 1712, which continued in effect with few and slight changes until 1783, see "Statutes," II., 593-598.

[5] After 1768, twelve months, as in the other colonies. "Statutes," VII., 91, § 5.

[6] See further, "Statutes," II., 117, § 5; 136, § 4; III., 491, §§ 4, 5; 721, § 2; "Charleston Year Book," 1881, 333.

[7] "Statutes," III., 430, 480, 736; IV., 141; VI., 241, 242; VII., 90-92; "Charleston Year Book," 1881, 43, 44; 1887, 150; 1888, 98.

aid granted by the parishes, there were three charitable societies which gave aid to poor orphans, principally by education: the South Carolina Society, organized in 1738 at Charleston; the Winyaw Indigo Society, organized in 1755 at Georgetown, and the Fellowship Society, organized in 1762 at Charleston.[1]

The roads were, to a certain extent, under the control of the parishes. Before 1721, no new road was laid out except after the passage of a special act and the appointment by the Assembly of a Board of Commissioners, generally consisting of five members, to carry the act into effect.[2] In 1721, the various acts relating to roads were repealed and a Highway act passed, intended to cover all roads in the colony.[3] The colony was divided into thirty-three districts, and the roads in each were placed under the care of a commission, varying in number from three to eleven members each. In four cases the bounds of the districts coincided with those of parishes, but the majority of parishes were subdivided into two, three and even six divisions, while in five cases the duties of the commission consisted mainly in keeping creeks clean and in repair.[4] The members were all appointed in the first instance by the Assembly, and vacancies were filled by the remaining members, or by the Governor if the remaining members failed to fill the vacancy within a reasonable time. In no case were the members elected by the parish, as stated by some writers. Members were appointed or elected for life. Resignations were not allowed to be accepted until 1741, and then only after three years of service.[5] Additional members were at times added by the Assembly to several of

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[1] "Statutes," V., 183; VIII., 106, 107, 110-114, 192, 246, 255, 351, 365. The Fellowship Society also maintained a hospital. "Rules of the Incorporated South Carolina Society," pp. vii, viii.

[2] See "Statutes," IX., 1-50.

[3] "Statutes," IX., 49-57.

[4] For later acts appointing commissioners to clear creeks and lay out drains see "Statutes," VII., 492-496, 506-508, 513-519; IX., 129, § 9.

[5] "Statutes," IX., 129, § 8.

the boards,[1] and several new boards were appointed, with all the powers of the old, especially when new parishes were created.[2] When all the members of a board died, leaving no successors, the Assembly made entirely new appointments.[3] The roads in Charleston were under the care of the Governor, Council and five other members until 1764, after which date they were placed under the care of a board appointed as in other parishes.

In addition, there were a few other local officials in Charleston appointed, in the first instance, by the Assembly, with vacancies filled by the remaining members or by the Governor. The more prominent of these were the Fire Commissioners, whose duty was to see that all the inhabitants possessed ladders, fire-hooks, buckets, etc., ready for use in case of fire; a Sealer of Weights and Measures;[4] Gaugers and Measurers;[5] a Flour and Tobacco Inspector,[6] and Packers, who examined all rice, beef, pork, tar, pitch, rosin and turpentine before exportation.[7]

Finally, the parish became the unit of election of members to the Commons House of Assembly. Of the early elections very little can be said beyond the fact that they took place at Charleston.[8] An attempt, in 1683, to have half of the members chosen at Charleston and the rest at Wilton

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[1] See, for example, "Statutes," III., 222, § 2; IV., 256, § 5; IX., 127, § 3.

[2] "Statutes," IV., 9, § 8; IX., 127, § 3; 145, §§ 1, 12; 182, § 4.

[3] "Statutes," IX., 162, § 1.

[4] After 1693. "Statutes," II., 77, 96, 122, 186, 278, 346.

[5] After 1710. "Statutes," III., 347, § 2; 500, §§ 10-14; 587; 690, §§ 14, 15; 751; IV., 47; 96; 207; 291, §§ 6-12; 540. After 1768, they were elected by the residents of Charleston.

[6] After 1771. "Statutes," IV., 327-331.

[7] After 1693. "Statutes," II., 77, 96, 216, 264, 298, 615; III., 103, 500, 587, 686-690, 751; IV., 47, 96, 207, 295, 333, 349, 382, 541. There were Packers in Georgetown and Port Royal, also, elected by the residents of the respective towns.

[8] The Fundamental Constitutions are singularly silent upon the question of elections. See § 75.

failed.[1] Very little departure from the original system was made until 1716, when the election act was passed, reference to which has already been made.[2] The method of procedure as detailed by the election act and its successors was practically the same. Forty days before the election, writs[3] calling for the same were issued by the Governor and Council to the various churchwardens, who gave public notice of the time and place of the election.[4] The churchwardens had entire charge of the balloting. They were obliged to be present during the hours of voting, and were heavily fined for stuffing the ballot-box or opening ballots before the closing of the polls. Voters were exempt from arrest on civil process while on their way to or from the polling places and for forty-eight hours after the votes had been counted. Bribery and intimidation at the polls were severely punished, and, when done by the person elected, lost him his election. The qualifications of voters varied somewhat throughout the period, but in general it may be stated that a voter had to be a free white male Protestant, twenty-one years of age, a resident of the colony for a certain period of time, and possessing fifty acres of land or its equivalent value in personalty. After 1745, voters were allowed to cast their votes either in the parish of residence or in which they held the required amount of property. Elections were conducted in a very simple manner. The balloting took place at the parish church. The ballots were prepared by the voters and deposited by them in a ballot-box prepared for the purpose by the churchwardens. The polls were kept open for two days, when the votes were counted by the wardens and the successful candidates informed of their election.[5]

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[1] Dalcho, 16; "Collections," I., 125.

[2] See "Statutes," II., 73, 130, 249; "Collections," I., 130. See page 49.

[3] For the form, see "Collections," I., 289.

[4] A copy of one of these notices is given in Gregg, 168.

[5] In addition to the acts of 1716, 1719 and 1721, see "Statutes," III., 657; IV., 99.

A few words on the subject of naturalization may not be out of place here. The rule in England had been the same as in other countries,—a man owed allegiance to the Crown in whose dominions he was born. Aliens were without rights, but, in time of peace, were tacitly allowed many rights of Englishmen. Parliament might naturalize foreigners, which was generally done by means of special acts. Sailors, however, serving in the British navy or on board of British whaling vessels were generally allowed to become naturalized under certain conditions.[1] The individual colonies likewise passed acts, conferring the rights of natural-born persons upon foreigners settling within their limits and complying with certain requirements. The occasion of the passage of naturalization acts in South Carolina was the presence of the French refugees,—quiet, law-abiding and very desirable citizens. The act of 1691 conferred upon the French and Swiss residents the same rights and privileges as were possessed by free-born South Carolinians.[2] This act was disallowed by the Proprietors, in common with other acts passed by Sothell's Assembly.[3] At the earnest solicitation of the Proprietors, however, another act was passed, six years later, similar to that of 1691, allowing naturalization papers to be obtained by such applicants as had taken the oath of allegiance to the King.[4] This act, like its predecessor, applied only to such alien Protestants as were at the time actual residents of the colony. In 1704, the act was extended to include aliens settling in the colony in the future.[5]

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[1] See 6 Anne, c. 37, § 20; 13 Geo. II., c. 3, § 2; 22 Geo. II., c. 45; 29 Geo. II., c. 5; 2 Geo. III., c. 25; 4 Geo. III., c. 22; 8 Geo. III., c. 27, § 3; 13 Geo. III., c. 25; 14 Geo. III., c. 84; "Collections," II., 249. For other early English naturalization acts, see 7 Anne, c. 5, §§ 2, 3; 10 Anne, c. 5; 1 Geo. I., Stat. II., c. 29; 4 Geo. I., c. 21; 13 Geo. III., c. 21.

[2] "Statutes," II., 58-60. According to the Fundamental Constitutions, citizenship was to be gained by merely signing the Grand Model. See § 118.

[3] "Collections," I., 128, 129.

[4] "Statutes," II., 131-133; "Collections," I., 131, 141, 145.

[5] "Statutes," II., 251-253; III., 3, § 3; "Collections," I., 149. The statements of Daly in his monograph on "Naturalization," pp. 15, 16, are somewhat mixed and inaccurate.

But naturalization in one colony gave no rights in another.[1] In 1740, the British Parliament passed an act to obviate this difficulty, by conferring the rights of citizenship upon foreign Protestants who had resided for seven years in the colonies and had taken the various oaths prescribed by Parliament, thus rendering individual colonial acts unnecessary.[2]

According to the Fundamental Constitutions,[3] incorporated towns were to be governed by a mayor, twelve aldermen and twenty-four common councilmen. The Proprietors were to appoint the Mayor and Aldermen from the Council chosen by the householders. Aside from the parish, however, there was no trace of local government in South Carolina until after the close of the Revolutionary War. As early as 1694, the Proprietors had recommended the Governor to give a charter to the inhabitants of Charleston.[4] But no town during the colonial period was actually incorporated.[5] The interior of the colony, which was not embraced within the limits of a parish, was absolutely without local government of any kind until 1785, when the State was subdivided into counties, principally for judicial purposes.[6] The parish system remained, however, in the lowlands until the reconstruction period, and even to-day several of the townships are known as parishes.

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[1] Chalmers' "Opinions," I., 344.

[2] 13 Geo. II., c. 27. See also 20 Geo. II., c. 44; 26 Geo. II., c. 26; 27 Geo. II., c. 1; 13 Geo. III., c. 25. Baird's remarks in his "Huguenot Emigration to America," II., 173-175, to the effect that the Crown refused to sanction colonial naturalization acts are misleading. Such acts were not disallowed until after the passage of the British colonial naturalization act of 1740. See Chalmers' "Opinions," I., 344; II., 123; "New York Colonial Documents," VIII., 402; "New Jersey Colonial Documents," X., 412.

[3] See § 92.

[4] "Collections," I., 137.

[5] The act of the Assembly incorporating Charles City and Port in 1722 was disallowed. See "Collections," I., 158, 159, 265, 266, 267, 272, 275, 277; II., 155, 162; Chalmers' "Opinions," II., 53-56; Chalmers' "Revolt," II., 96. Charleston was not incorporated until 1783. See "Statutes," VII., 97.

[6] "Statutes," IV., 661-666.

CHAPTER VII.

The Judiciary.

By their charter, the Proprietors were empowered to establish courts and forms of judicature, appoint judges, hold pleas, award process, and hear cases, civil and criminal. The system as outlined by them in the Fundamental Constitutions was very elaborate and was founded upon the subdivisions of the county. Courts were to be erected in each seigniory, barony and manor, to be presided over by their proper lord, and also in the four precincts of the county, each to be presided over by a steward and four justices. All court officials were to possess certain property qualifications and to be residents of their respective judicial districts. Appeals were to be allowed in certain cases from the above courts to the county court, and from the latter to the Proprietors in all criminal cases, and in civil cases when the matter in dispute exceeded £200 in value or related to title to lands.[1]

Such an elaborate system, however, could not be put into operation until the colony had been sufficiently well settled. Hence no attempt was made to establish a judicial system until the division of the colony into counties in 1682, all judicial business being attended to by the Governor and Council.[2] In that year a court was erected at Charleston for Berkeley county, and the intention was to erect courts in the other counties as soon as they were sufficiently populated to warrant it.[3] But no courts were ever erected in them, and the court at Charleston remained practically the only court of record for civil business in South Carolina until the eve

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[1] Fundamental Constitutions, §§ 16, 61-63.

[2] Rivers, "Sketch," 348, 352, 354.

[3] Rivers, "Chapter," 62; "Collections," I., 87, 134.

of the Revolutionary War.[1] The court claimed all the powers, rights and privileges exercised by the Court of Common Pleas at Westminster. Sessions were held quarterly, and all writs and process ran in the name of the Proprietors, or King after 1719.[2]

The principal judicial officials were the Justices, Clerk, Provost Marshal, and Attorney-General. The Proprietors had intended to have a Chief Justice and four Associate Justices preside over each county court, and the first appointments were made in accordance with this intention.[3] But the small amount of business rendered so many Justices unnecessary, and from 1694 until 1732 a Chief Justice alone was appointed.[4] After the reorganization of the judicial system in 1731, two Associate Justices were appointed, to whom, in 1744, was given the power to hold court in the absence of the Chief Justice.[5] Appointments were made by the Governors and removals were frequently made to create vacancies for favorites.[6] The salary of the Chief Justice was £60 a year during the proprietary period and £100 during the royal. The Assistant Justices served without pay.[7] The duties of the Clerk were to keep records of all processes and actions tried in the court. Under the Proprietors the duties were performed by the Secretary of the colony; under the King, by a patentee of the Crown.[8] The Provost-Marshal

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[1] Carroll, II., 221.

[2] "Statutes," VII., 190, § 2; 186, § 8; 189, § 1; 190, § 6; III., 324, § 4. See also Stokes, 157; "Collections," II., 172; Pownall (1st ed.), 75.

[3] Fundamental Constitutions, § 61; "Collections," I., 116, 130, 131, 134; Rivers, "Chapter," 61, § 11.

[4] "Collections," I., 126, 156, 197; II., 129, 275; Stokes, 157.

[5] "Collections," II., 186; "Statutes," III., 326, § 7; 632, § 7; Ramsay, II., 154.

[6] "Collections," I., 90, 92, 130, 131, 134; II., 273, 306, 309; "North Carolina Colonial Records," I., 705; Rivers, "Chapter," 61, § 11; Stokes, 158; Carroll, II., 427. For cases of appointment for life, see "Collections," I., 127, 246, 247, 250. The Assembly never appointed the Justices as stated in the "Statutes," I., 430.

[7] "Collections," I., 145, 155; "Statutes," III., 317, § 32; 448, § 32.

[8] "Collections," I., 92, 112, 117, 174, 250; Rivers, "Chapter," 62, § 13; "Statutes," III., 275, § 4; Grimké, 271, § 20.

was the general executive officer of the courts, possessing the same powers and liabilities as the English sheriff, to whose duties his were similar.[1] During the proprietary period he was appointed by the Governor, and Governors were occasionally known to sell the office to the highest bidder. During the royal period, however, the office was held by a patentee of the Crown, the same person holding the office of Clerk and Provost-Marshal and performing his duties by deputy until 1769, when the colony purchased the right to appoint its own Clerk and Provost-Marshal.[2] The Marshal was also the public jail-keeper, and his house, or his deputy's, remained the colonial prison until 1770, when a jail was erected.[3] An Attorney-General was also appointed, generally by the Governor, to prosecute offenders against the law.[4]

Criminal jurisdiction was retained by the Governor and Council until 1701, when a criminal court was established at Charleston, under the name of "Court of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery." Its jurisdiction was practically the same as that possessed by similar courts in England. The officials connected with the Court of Common Pleas held similar positions in the Court of General Sessions, and the two courts were managed as two divisions of the same court.[5]

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[1] Rivers, "Chapter," 62, § 14; 80, § 51; "Statutes," II., 611-613, 682; III., 85; 117, § 1; 118, § 4; 186, § 8; 190, § 5; 275, § 4; 284, §§ 37, 38; VII., 188, § 12; 190, §§ 3-5; "Collections," II., 178; "Letter to Bern," 26; Chalmers' "Opinions," I., 145.

[2] "Collections," I., 87, 174, 187, 237, 250; II., 131, 191; III., 323. The correspondence relating to the sale is given in Weston, 106 *et seq.* See also "Collections," I., 163, 164, 186, 187, 233; Redington's "Calendars," II., No. 528. He was paid by fees. "Statutes," III., 415, 422.

[3] "Statutes," II., 166, 167, 415; III., 284, 638; IV., 323-325; VII., 202; "Collections," III., 323. See also "Statutes," II., 425, 453.

[4] "Collections," I., 130, 136, 144, 153, 155, 156; II., 129, 273; Weston, 201.

[5] "Statutes," II., 167, § 3; 286, § 45; III., 97; 236; 268; 282, § 30-32; 543, § 5; VII., 194, § 1; Rivers, "Chapter," 62, §§ 17, 18; Stokes, 158.

In addition to the officials already referred to, there were Justices of the Peace and Constables. The former were appointed by the Governor. Their duties were many and minor in character. They could commit trespassers to jail, admit prisoners to bail, give certificates of ownership of horses and the like. They also had jurisdiction in petty cases under forty shillings, in imitation of the London Court of Conscience, tried offenders against the Sunday law, and settled claims for damages caused by the erection of dams. They were paid by fees.[1] The Constables likewise date back to 1685, if not earlier. They were appointed by the Justices of the Court of General Sessions. Their number was large, how large it is impossible to state. Their duties were of a minor and miscellaneous character; they served writs in small cases, conveyed prisoners to jail, whipped negroes, summoned jurors, collected several local taxes, and notified the Court of General Sessions of all wrong actions coming to their notice.[2] As in other colonies, the number of lawyers was very small. Fifty-eight were admitted to the bar between the years 1748 and 1775. The records of those admitted before that date are lost.[3]

The jury system in South Carolina was in many respects unique. Jurors were not returned by the Sheriff, as elsewhere. Every three years lists of jurymen were prepared by the Chief Justice, Coroner and Treasurer. All freeholders paying a minimum tax of £2 were liable to service as

[1] "Statutes," II., 1, 27, 28, 34, 47, 74, 289, 397, 443-446, 452, 454, 482, 598; III., 99, 131, 139, 268, 603, 609, 705; IV., 177, 184; Grimké, 213; Chalmers' "Opinions," II., 161; Stokes, 158; Weston, 81; Carroll, II., 221; "Collections," II., 172; 3 Jac. I., c. 15; 6 Edw. I., c. 8.

[2] "Statutes," II., 27, 34, 47, 74, 94, 96, 117, 138, 183, 208, 270, 278, 287, 299, 332, 361, 388, 594, 598, 629; III., 99, 283, 555, 586, 638, 751; IV., 47, 96, 207, 294, 333, 349, 382, 540; VII., 2, 403. "Collections," I., 186; "South Carolina and American General Gazette," March 11, 1768.

[3] See "Statutes," II., 447; VII., 173, § 29; Ramsay, II., 159; Grimké, 271, § 15. By the Fundamental Constitutions, § 70, no one was to be allowed to plead the cause of another for money.

petit jurors, while those paying a tax of £5 or more were liable to service as grand jurors. The names of all were written upon separate pieces of paper and placed in a box prepared for this purpose. This box contained six compartments: into the first were placed the names of those liable to grand jury service; into the third, those liable to petit jury service; into the fifth, the names of those residing in Charleston. The box had three locks, with three different keys, one each in the possession of the Chief Justice, Coroner, and Treasurer, and could be opened only in the presence of all three. As a general rule, jurors were drawn at Charleston during the session of the court preceding that in which they were to serve. Thirty slips were drawn[1] from the first compartment for grand jury service, forty-eight from the third for criminal jury service, thirty more from the third for civil jury service, and thirty from the fifth to serve at special courts. The names of the persons drawn were entered in the session book by the clerk, and the slips were placed in the second, fourth and sixth compartments respectively. This process was continued until all the slips had been withdrawn from the odd-numbered compartments and placed in the even, when it was begun over again. Those whose names had been drawn were summoned by the Provost-Marshal to appear at the next session of the court. Of those appearing, twenty-three in the case of the grand jury and twelve in the case of the petit were drawn for actual service. The grand jurors were sworn by the clerk of the court and then retired to examine the bills filed by the Attorney-General. These were indorsed good or bad according as they were found against or for the prisoner, and were returned to the clerk of the court. The duties of the petit jury were the same as to-day, to decide the facts in the case presented for their consideration. In criminal cases a prisoner was allowed to except against twenty jurors. Surgeons and butchers were forbidden to sit on the jury in criminal

[1] The custom was to have the drawing done by the first boy who appeared after the box was opened. See Carroll, I., 105.

cases. Others exempt from jury service of all kinds were: members of the Council and of the Assembly, Justices, Assistant Justices, and all other court officials and such persons as were exempt by the laws of England. This description of the jury system is taken from the jury act of 1731,[1] which continued in force, with a very few slight changes, throughout the remainder of the colonial period.[2] The earlier acts are lost,[3] but the system as above outlined was in use before 1710, and is said to have originated with Gov. Smith in 1693.[4]

In the first years of the colony, when the Governor and Council possessed jurisdiction in all cases, appeals were unnecessary. When courts of law were created, the right of appeal to the Governor in Council was reserved. During the proprietary period appeals seem to have been allowed in all cases, but during the royal period they were allowed, with a few exceptions, only when the matter in dispute exceeded £300 sterling in value. In this appellate court the Governor sat as Chief Justice, the Council as Associate Justices, and the colonial Secretary as Clerk. Writs were served by the Provost-Marshal.[5] Appeals were furthermore allowed from the Governor in Council to the Proprietors or King in Council. Under the Proprietors, all cases were appealable; under the King, only those where the matter in

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[1] "Statutes," III., 274-282.

[2] "Statutes," III., 543, § 4; 631, § 3; 728, § 3; IV., 43, § 3; VII., 196, § 6. For the changes, see "Statutes," III., 282, § 5; 323, §3; 554, §§ 1-5; 630, §§ 3-6; 728, § 3; IV., 43, § 3; 195, § 3; VII., 187, § 11; 203, § 15.

[3] Passed in 1695, 1697, 1702, 1704 and 1712. "Statutes," II., 96, 130, 185, 256, 378.

[4] "Letter to Bern," 23, 24; "Harper's Monthly," December, 1875. p. 17. The act of 1692, the first jury act passed in South Carolina, was disallowed by the Proprietors. "Statutes," II., 76; Rivers, "Sketch," 436-439. See further, Weston, 203-205; Fundamental Constitutions, §§ 66-69.

[5] Rivers, "Chapter," 62, §§ 15, 16; 81, § 53; "Collections," I., 171; Stokes, 184, 223; "New Jersey Colonial Documents," VIII., Pt. 1, 188-189.

dispute exceeded £500 sterling.[1] The law applied by these courts was, generally speaking, the common law of England, the first settlers being supposed to carry with them the underlying principles of English law and customs in existence at the time of their departure. To make this sure, the Assembly, in 1712, enacted that the English common law, where not altered by nor inconsistent with the customs and laws of the colony, was to be in force in South Carolina, except the ancient tenures and the ecclesiastical law.[2]

Such was the composition of the judicial system of South Carolina during the greater part of the colonial period. There was considerable dissatisfaction with the system, and several efforts were made to improve it, especially in 1721.[3] Five precinct courts were then established: at Waccamaw, Wando, Echaw, Wilton, and Beaufort, each presided over by five Justices of the Peace, appointed by the Governor. The jurisdiction of the courts was somewhat extended, including all criminal actions not extending to life or limb, and all civil actions up to £100 sterling. In addition, the court heard all actions relating to violations of the slave code, punished obstinate and incorrigible servants, granted and revoked liquor licenses, heard questions relating to wills and administration, had charge of orphans, compelled executors to account, and examined the accounts of the churchwardens and overseers of the poor. Appeals were allowed under certain restrictions to the Court of Common Pleas at Charleston. The procedure was practically the same as in the Charleston court. It was intended to build courthouses, prisons and inns in each district. But for some reason the

[1] "Collections," I., 205, 225; "North Carolina Colonial Records," II., 161; "New Jersey Colonial Documents," VIII., Pt. 1, 189-190; Fundamental Constitutions, § 65.

[2] "Statutes," II., 413, § 5. See also "Collections," I., 131, 132; Chalmers' "Opinions," I., 195, 197, 220; II., 202; Forsyth's "Opinions," pp. 1, 2; "Journals of Congress," I., 27-31; Daws *v.* Pindar, 2 Modern Reports, 45; Blankard *v.* Galdy, 2 Salkeld's Reports, 411; Rex *v.* Vaughan, 4 Burrows' Reports, 2494, at p. 2500; Gordon *v.* Lowther, 2 Lord Raymond's Reports, 1447.

[3] "Statutes," II., 99; VII., 166-183; Chalmers' "Opinions," I., 355.

precinct court system proved unpopular and soon fell into disuse.[1]

Until the passage of the Circuit Court act in 1769, therefore, all court business was transacted at Charleston. The principal reason for the passage of the act was the fact that the new settlers in the "back country" from Pennsylvania and Virginia needed protection from the freebooters who were overrunning the territory. The first act was passed in 1768. Its disallowance by the Crown because of certain provisions which it contained was followed by the passage of a similar act the following year, with the objectionable clauses omitted.[2] Semi-annual sessions of the court were ordered to be held at Orangeburgh, Camden, Ninety-Six, Cheraws, Georgetown and Beaufort, to hear all actions, civil and criminal. The Justices of the courts at Charleston sat also at the sessions of the Circuit courts. Writs and process issued from and were returnable to the Court of Common Pleas at Charleston, leaving only the trial to be conducted at the Circuit court. Circuit Sheriffs and Clerks were appointed by the Governor. The procedure in other respects was practically the same as in the Charleston court.[3]

There yet remain to be mentioned the courts of Chancery, Admiralty, the Ordinary, and the Coroner. It was the intention to have a Coroner in each county, but there seems never to have been a Coroner in the colonial days outside of Charleston. He is first mentioned in 1685, but his duties

[1] A supplemental act passed in 1727 was disallowed by the King. The act of 1721 was not expressly repealed until 1759, although obsolete certainly by 1730. "Statutes," III., 273, 287; IV., 76; "Collections," II., 119, 132.

[2] For the approval, see "Collections," II., 191, 192. Unfortunately, the act inserted in the "Statutes," VII., 197-204, is the disallowed act of 1768; the approved act of 1769 is inserted in Judge Grimké's "Public Laws," 268-272, although in a somewhat mutilated condition. See Redington's "Calendars," III., No. 1196.

[3] See also "Statutes," IV., 325, § 10. The salaries were increased as follows: The Chief Justice was granted an annual salary of £500; Assistant Justices, £300; Attorney-General, £200; Clerk of the Court of Common Pleas, £300; all in sterling.

were not fully defined until 1706.[1] He was appointed by the Governor, and his duties consisted mainly in examining into the cause of violent and sudden deaths. His court was held whenever and wherever he pleased. All testimony was given in writing, as well as the verdict of the jury, and the Coroner reported the result to the next Court of General Sessions.

The Governor was Ordinary of the colony, and as such had the right to collate to benefices and grant probate of wills and letters of administration. The right to collate to benefices was never exercised in South Carolina.[2] Wills were proved by an oath before the Ordinary that the document was the last will of the deceased.[3] Administration was granted only after the issue of a citation which had been read in church by the minister on the Sunday preceding the granting of administration. Administration granted in one colony did not extend to another, nor to England; nor did administration granted in England extend to the colonies in case of realty. Personalty was distributed according to the law of the deceased's domicil; but if the deceased died intestate in the colonies, leaving personalty in England, administration was granted in England, although his domicil were in the colony. Records of probate of wills and granting of administration were kept by the Secretary of the colony.[4] All ecclesiastical questions were referred to the Bishop of London, or were heard by his commissary in South Carolina.

Chancery jurisdiction seems to have existed in South

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[1] "Statutes," II., 6, 269, 482; VII., 181, §§ 6, 7.

[2] "Statutes," II., 438, 440, 466-470, 523; "Collections," II., 303; Stokes, 159, 184, 185.

[3] The Proprietors appointed a special official to grant probate of wills and administration. "Collections," I., 157, 185; II., 178; Stokes, 203.

[4] Stokes, 211; Chalmers' "Opinions," I., 28, 29; Forsyth's "Opinions," 45; "Letter to Bern," 27; Pipon *v.* Pipon, Ambler's Reports, 25; Burn *v.* Cole, Ambler's Reports, 416; Atkins *v.* Smith, 2 Atkins' Reports, 63.

Carolina upon the same precarious footing that it existed in the other colonies. There is no trace of the assent of the Crown to the establishment of any Court of Chancery in South Carolina. Nevertheless, the jurisdiction was exercised in the colony from an early day.[1] The Proprietors formally appointed the Governor and Council a Court of Chancery as early as 1691, and the Assembly recognized this appointment in the year 1700.[2] The Governor acted as Chancellor, the Councillors as Assistants, and the Secretary of the colony as Register or Clerk. The court sat quarterly, and heard cases similar to those heard in the English Court of Chancery. Appeal was allowed to the King in Council when the matter in dispute exceeded £300 sterling in value.[3]

The question of admiralty jurisdiction has been a troublesome one to describe, but it becomes comparatively simple when the fact is borne in mind that there were two sets of Admiralty courts in the colonies during the greater part of the colonial period, and that at one time there were three: Colonial Courts of Admiralty, English Courts of Vice-Admiralty, and the Court of Vice-Admiralty over all America. The various charters granted by the Crown in the seventeenth century included the land, coast, bays and inland waters from the Atlantic ocean westwards. Thus the admiralty jurisdiction of the colonies was very limited, being confined to acts committed at the mouths of rivers or at sea near the coast,[4] and few colonies supported special courts of Admiralty, the jurisdiction being placed generally in the hands of the Governor and Council,[5] or, as in South Caro-

[1] Chalmers' "Opinions," I., 182; Keath, "A Collection of Papers," 179.

[2] Rivers, "Chapter," 62, § 16; "North Carolina Colonial Records," I., 435; II., 632; "Statutes," X., Appendix, p. 6.

[3] For the acts relating to the colonial Court of Chancery, see "Statutes," II., 414, § 5; III., 324, § 5; VII., 208-211. See also "Collections," II., 295; Stokes, 184, 194; Carroll, II., 155, 220, 221.

[4] "Statutes," II., 446, 447; Stokes, 161, 162; "Collections," II., 172; Douglass' "Summary," I., 216; Sainsbury's "Calendars," IV., 972.

[5] See Chalmers' "Opinions," II., 227.

lina, in the hands of the regular judicial tribunals.[1] The early intention of the English government seems to have been to extend the jurisdiction of these colonial courts of Admiralty, and violations of the provisions of the navigation acts were at first directed to be punished in such courts. As it became more and more evident that the navigation acts could not be enforced when offenders were tried before juries who had themselves been guilty of the same act as the accused, it was decided to establish in each colony branches of the English High Court of Admiralty.[2] The establishment of these courts of Vice-Admiralty rendered the colonial courts of Admiralty superfluous, and the latter very generally disappeared before the close of the colonial period.

The first Court of Vice-Admiralty in South Carolina was established in 1697.[3] During the proprietary period the Judge of Vice-Admiralty was generally appointed by the Proprietors through the Governor, subject to the approval of the English Commissioners of Admiralty; during the royal period the Lords Commissioners of Admiralty appointed each Governor a Vice-Admiral in his colony. The Governor himself, however, seldom sat, but generally appointed a Judge to sit for him in this court. He also appointed the other officers of the court: Register or Clerk, Marshal or Sheriff, and Advocate-General or prosecuting officer.[4] The jurisdiction of the court was similar to that of the English High Court of Admiralty, and included maritime causes, cases of prizes taken in war, and violations of the navigation acts, the last being concurrent with the earlier colonial courts of Admiralty, as before stated.[5] Appeals were

[1] "New Jersey Colonial Documents," II., 133-134.

[2] "Collections," I., 211.

[3] "Collections," I., 197; "North Carolina Colonial Records," I., 471, 473, 490.

[4] "Collections," I., 153, 178, 207; II., 207, 273, 276; "North Carolina Colonial Records," I., 389, 490; Rivers, "Chapter," 83, § 61; "Statutes," III., 420; Carroll, I., 359; II., 221; Stokes, 166-176, 184, 233.

[5] Stokes, 167–172, 233, 270; Chalmers' "Opinions," II., 188-196; Forsyth's "Opinions," 91-93; Chalmers' "Revolt," I., 272, 275, 301.

allowed direct to the English High Court of Admiralty, except cases of prizes taken in war, which lay to commissioners especially appointed for this purpose.[1] There were two methods of trying pirates: by the first, the offender was tried before a jury of twelve, the court consisting of the Admiral or Vice-Admiral and two or three persons especially commissioned by the King for this purpose, the trial being conducted as at common law. By the second method, the Vice-Admiral or any admiralty official in the colony could of his own motion summon seven substantial citizens to act as a court, hear the evidence, and decide the case by a majority vote, even sentencing the pirate to death. The first method was adopted in England in 1535, the second in 1700, and both methods were early extended to the colonies.[2]

It has already been stated that violations of the navigation acts were tried before either court of admiralty at the option of the prosecutor. The fact that juries failed to convict, even in the clearest cases of smuggling, led prosecutors to ignore the colonial courts of Admiralty and to bring their suits in the courts of Vice-Admiralty, where all cases were tried without a jury.[3] The officers of the Vice-Admiralty courts were frequently colonial residents and averse to convicting their fellow-citizens of smuggling. Hence it became evident to the English government in 1763, when duty acts

[1] Stokes, 175; Chalmers' "Opinions," II., 227, 228; Forsyth's "Opinions," 377; Jameson's "Essays," p. 14; 17 Geo. II., c. 34, §§ 5, 8, 9; 22 Geo. II., c. 3; 29 Geo. II., c. 34, §§ 5, 8, 9.

[2] 27 Hen. VIII., c. 4; 28 Hen. VIII., c. 15; 11 and 12 W. III., c. 7; 4 Geo. I., c. 11, § 7; 6 Geo. I., c. 19, § 3; 8 Geo. I., c. 24; 18 Geo. II., c. 30; "Collections," I., 223; II., 263, 276; Rivers, "Chapter," 82, § 56. Courts-martial also came under the supervision of the Admiralty courts. See, for example, 22 Geo. II., c. 33, §§ 6-19; 29 Geo. II., c. 27; 30 Geo. II., c. 11, §§ 2, 6, 7; 31 Geo. II., c. 6, §§ 2, 6, 7; 32 Geo. II., c. 9; 33 Geo. II., c. 8; 4 Geo. III., c. 8.

[3] "Collections," I., 154, 218; "Journals of the House of Commons," XIII., 502-505. As an exhibition of the feeling of the Assembly upon the question of smuggling, see "Statutes," II., 167-173, where prosecutors were obliged to give bonds for £50 to pay costs in case the accused was declared innocent. The act was of course disallowed by the Board of Trade. "Collections," I., 219.

were passed and an energetic attempt was made to enforce the navigation acts, that some new kind of machinery must be devised if the acts were to be enforced. As a result, a third court was created, known as the "Court of Vice-Admiralty over all America," before which all violations of the navigation acts were to be tried. The history of the court is very obscure. It was located at Halifax, as it was thought that more satisfactory verdicts could be obtained by its establishment in a territory uninfluenced by the traditions of the older possessions. Furthermore, the judge and other officials of the court were appointed by the Lords Commissioners of Admiralty directly and were sent over from England. The court was actually constituted and opened for business in 1764. The result was a strong protest from every colony against the injustice of a system which permitted a prosecutor to call an accused from Georgia to Halifax to defend himself against an unjust charge. Hence within a year from the time of establishing the court the Lords Commissioners of the Treasury requested its removal from Halifax to Boston and the establishment of two other similar courts,—one at Philadelphia, the other at Charleston. The impracticability and uselessness of the whole scheme soon became apparent, and the jurisdiction of the court was transferred to the old courts of Vice-Admiralty, while the new court fell speedily into disuse, although not formally abolished.[1]

These courts of Vice-Admiralty in each colony continued in use until the outbreak of the Revolution, when they suddenly collapsed because of their entire dependence upon the mother-country. Thereupon, November 25, 1775, the Con-

[1] 4 Geo. III., c. 15, § 41; 8 Geo. III., c. 22; "Annual Register," 1774, p. [216. For reference to the documents, see "Journals of the House of Commons," XXX., 508, 591. See also "South Carolina Gazette," June 9, 1766, p. 4. A sketch of the court is given in Tuttle's "Historical Papers," 271-273, reprinted from "Mass. Historical Society, Proceedings," XVII., 291-293. See also Washburn's "Judicial History of Massachusetts," 175. At the same time, appeals were allowed from colonial courts of Admiralty to colonial courts of Vice-Admiralty.

tinental Congress recommended the re-establishment in each colony of the original Courts of Admiralty, allowing appeals to Congress under certain restrictions. In accordance with this recommendation, Admiralty courts were re-established in each of the colonies by act of the various Assemblies, but provision was generally made, as in South Carolina, for a jury trial. The appeals to Congress were referred to a standing committee on appeals until the ratification of the Articles of Confederation, when a regular Court of Appeals was established, with three judges, and called the "Court of Appeals in Cases of Capture." The end of the war rendered its further existence unnecessary.[1]

[1] See Bancroft Davis, "The Committees of the Continental Congress"; Jameson's "Essays," No. 1; "Papers of the American Historical Association," III., 383-392; "Statutes," IV., 348.

CHAPTER VIII.

MILITIA.

The scattered condition of the settlers, living in the midst of enemies—negroes and Spaniards as well as Indians—made it necessary for them to be organized upon a military basis. As to the form of the organization in the early years of the colony, it is now impossible to speak with accuracy, since none of the militia acts passed prior to 1703 are in a legible condition. That the Assembly devoted considerable time to the subject is evidenced by the fact that thirteen acts relating to the militia were passed between the years 1682 and 1698.[1] The form was evidently settled by 1700, since the acts of the eighteenth century vary but little from one another.[2] According to these acts, the militia consisted of all the white males in the colony between sixteen and sixty years of age: merchants, tradesmen, planters and servants;[3] but the governing and professional classes,[4] generally speaking, were exempt from military service, except in time of alarm. Each one furnished his own arms and accoutre-

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[1] "Statutes," II., 1, 40, 63, 77, 94, 96, 121, 124, 135, 139, 182; VII., 12; IX., 617.

[2] Militia acts were passed in the years 1703, 1707, 1721, 1734, 1738, 1739, 1747 and 1755, of which the last two remained in force until 1783. See "Statutes," II., 278, 350, 604, 618, 361; III., 221, 250, 270, 326, 373, 487, 587, 646; IV., 16, 17, 46, 95, 207, 294, 332, 349, 350, 383; IX., 617-663.

[3] White servants were temporarily exempted in 1744. "Statutes," III., 629, § 28.

[4] Members and officers of the Council and of the Assembly, judicial, customs and administrative officials, the clergy, pilots, ferrymen, strangers who had resided in the colony for less than three months, and servants for six months after completing their term of service.

ments,[1] which had to be kept in the house ready for use in case of emergency, and were inspected by the officers of the company six times a year.

The inhabitants of the parishes and townships were formed into companies, each parish having generally one or two companies, varying in size.[2] The Governor commissioned the captains of the various companies, and each captain appointed two sergeants[3] and a corporal for his company. The companies of the different counties were formed into regiments, varying in number according to the population.[4] The regimental officers—colonel, lieutenant-colonel, major and adjutant—were commissioned by the Governor,[5] who was the commander-in-chief of all the forces in the colony.[6] Each company was drilled six times a year.[7] Whenever three or more companies happened to be drilling upon the same day within six miles of one another, the colonel of the regiment was allowed to assemble them together and train them as a battalion. There was also held once a year a general muster of all the companies in a regiment. As the offi-

[1] Gun, cover for the lock, cartridge box, twenty cartridges, belt, ball of wax, worm, wire, four flints, sword, bayonet or hatchet, powder, bullets, powder horn and shot pouch.

[2] In 1671, the number of men in the militia was 150, Sainsbury's "Calendars," III., No. 472; in 1699, 1500, "Collections," I., 210; in 1708, 950, Rivers, "Sketch," 232, 233; in 1715, 1500, "Collections," III., 232; in 1719, 2000, "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., 255; in 1720, 1600, Rivers, "Chapter," 92; in 1721, 2000, "Report of the Board of Trade to the King," 117; in 1742, 4000, "Collections," III., 289; in 1763, 7000, Carroll, II., 479; in 1770, 8000, Weston, 202; in 1773, 13,000, "American and West Indian Gazetteer," 1778, art. Carolina.

[3] One, before 1739.

[4] In 1708, there were two regiments of militia; in 1774, twelve. Rivers, "Sketch," 232; Weston, 202; Drayton's "Memoirs," I., 352, 353.

[5] See also Carroll, I., 508; II., 221; Weston, 81; Rivers, "Chapter," 65, 82.

[6] Stokes, 185; Rivers, "Chapter," 65; "Collections," I., 87; "North Carolina Colonial Records," I., 177; Sainsbury's "Calendars," III., No. 87.

[7] Notice of the muster was given in the earlier period by beat of drum; in the later, generally by an advertisement in the Gazette.

cers of each regiment prescribed such military exercises as they saw fit, the confusion resulting when two regiments attempted to drill together can be better imagined than described.[1]

The statement has already been made that the members of the Council and Assembly were exempt from militia service. Until 1747, however, they were obliged to appear on horse and properly armed in time of alarm. After that year they were relieved from further service because of the formation of troops of horse. When the first company of cavalry was formed is not stated,[2] but there were two, if not more, in existence as early as 1740.[3] The members were exempt from service in the foot companies, but were obliged to attend four musters a year at Charleston, with horse and proper arms and ammunition provided at their own expense. For several years the inhabitants of Charleston had been drilled in the use of cannon at the batteries of Charleston and at Fort Johnston on James Island. In connection with the Charleston regiment, an artillery company was formed, March 1st, 1756. After 1760, the members provided themselves with uniforms, arms and accoutrements, while the colony furnished them with an artillery chest and carriages for ammunition and powder. The company was officered by a captain, captain-lieutenant, two lieutenants, three lieutenant-fire-workers and four sergeants, while the one hundred privates were classed as bombardiers, gunners and matrosses, serving in turn. The company was accustomed to drill from eight to twelve times a year. A second company was formed in 1775, when war was expected with England. The two companies were formed into a battalion and placed under the command of a major.[4] In addition, there

[1] Drayton's "View," 103.

[2] The acts of 1703, 1707, 1721 and 1734 gave the Governor permission to form such companies at his pleasure.

[3] See "South Carolina Gazette," January 26 and February 9, 1740.

[4] "Statutes," IX., 664-666; IV., 209, 296, 334, 350, 383, 541; Johnson's "Reminiscences," 206-209; Weston, 202.

were three independent companies located in Charleston and containing from eighty to one hundred men each. The first was of light infantry, organized in 1765;[1] the second was a company of grenadiers, organized at about the same time;[2] the third was a company of fusileers, consisting entirely of Germans, organized July 17, 1775, for the express purpose of offering resistance to England should an appeal to arms become necessary.[3]

In addition to militia service, the inhabitants of the colony were liable to patrol duty, made necessary by the system of slavery, and the inhabitants of Charleston were liable to the additional duty of keeping watch. In the early years of the colony, when the number of slaves was small, the government of the negroes was placed in the hands of all the whites, and patrol duty was unnecessary; but with the increase in the number of slaves came the adoption of the patrol system, which not only served to keep the slaves in subjection, but also removed from them several indignities to which they had previously been subjected. The first act was passed in 1704,[4] and called for patrol duty in time of alarm only. The next reference to the patrol is found in the militia act of 1721.[5] But no system was adopted until 1734,[6] and that system underwent alterations in 1737[7] and 1740.[8] The act of 1740 remained in force, with slight alterations in 1746[9] and 1839,[10] until the close of the Civil War.

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[1] "South Carolina Gazette," June 9, 1766.

[2] Carroll, I., 508; Letter written from South Carolina in 1772, reprinted in the "Southern Literary Messenger," March, 1845, p. 140, and in the "Historical Magazine," November, 1865, p. 343.

[3] Rosengarten, "The German Soldier in the Wars of the United States," 18, 33. This company did good service for the Patriots throughout the Revolutionary War.

[4] "Statutes," II., 254, 255. [5] "Statutes," IX., 639, 640, §§ 26-29.

[6] "Statutes," III., 395-399. [7] "Statutes," III., 456-461.

[8] "Statutes," III., 568-573.

[9] "Statutes," III., 681-685, 751; IV., 47, 96, 207, 295, 333, 350, 384, 541.

[10] "Statutes," XI., 57-61.

According to these acts, the boundaries of the patrol districts were identical with those of the militia, and all who were liable to militia duty were likewise liable to patrol.[1] The organization of the patrol varied somewhat in the different acts. In 1721, the captains of the various militia companies appointed persons to ride patrol in their respective districts, and relieved them from time to time. In 1734, the patrol in each militia district was put under the charge of three commissioners. They appointed a captain, who enlisted four men to patrol the district, subject to the approval of the commissioners. The change in 1737 consisted in the election of the captain by fifteen members of the patrol appointed by the commissioners. The acts of 1740, 1746 and 1839 contained very elaborate provisions upon the subject, which in brief were as follows: The officers of each militia company divided their district into patrol districts, over each of which was appointed a captain of patrol. Each muster day certain persons were detailed to ride patrol until the next muster day. Any one appointed was obliged to serve, provide a substitute or pay a fine. The duties of the patrol were various, but consisted mainly in visiting and examining at least as often as once in two weeks every plantation in the district, searching negro houses for "offensive weapons" and stolen goods, arresting and whipping negroes away from their masters' plantations without permission, pursuing runaways, and in fine preserving peace and order among the negroes.

The watch at Charleston was established very early in the history of the colony,[2] and acts relating thereto were passed almost yearly from 1685 to 1701.[3] According to these early acts, all male inhabitants, female heads of families (when

[1] The act of 1734 temporarily exempted patrols from militia duty, and the act of 1737 further exempted them from parish, road and jury duty.

[2] Ramsay says 1675, "History," I., 125; Rivers says 1671, "Sketch," 99.

[3] "Statutes," II., 76, 77, 94, 96, 121; VII., 2, 4, 7, 17, 18.

there was no male), and non-resident householders were obliged to perform watch duty or provide substitutes. The watchers were divided into four groups, from each of which six were appointed nightly to stand watch, under the direction of the constables, in each of the four quarters of the city, to quell all disturbances and arrest such suspicious characters as were found out late at night.[1] The constables' watch was superseded in 1703 by a military watch, consisting of a captain and lieutenant, appointed by the Governor, with twenty-four watchers, enlisted by the captain, of whom sixteen served nightly, receiving a small salary for their services.[2] Later in the year the inhabitants were divided into twenty squads, each watching by turns, under the direction of commissioners appointed by the Assembly.[3] In the following year the management of the squads was placed under the direction of the captains of the militia companies.[4] Other minor changes were made in 1707 and 1708.[5] In 1709, a return was made to the earlier system of constables' watches, where all the inhabitants served in turn without pay.[6] How long this system lasted, and when or what changes or modifications were made therein, cannot now be stated. Acts passed in 1711 and 1713[7] contained similar provisions, but all subsequent acts relating to this subject are lost.[8]

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[1] "Statutes," VII., 2, 3, 4, 7, 17, 18. [2] "Statutes," VII., 23-27.
[3] "Statutes," VII., 33-35. [4] "Statutes," II., 255, § 5.
[5] "Statutes," VII., 49-54; IX., 11, § 11.
[6] "Statutes," VII., 54-56. [7] "Statutes," VII., 57, 60.
[8] Acts were passed in 1719, 1720, 1741, 1761. "Statutes," III., 102, 153, 588; IV., 153; "Collections," II., 286.

CHAPTER IX.

Taxation.

The cost of running the government in the early period was very slight. Until 1713, tax acts were intermittent and few, for the government was supported by the Proprietors out of the quit-rents, and direct taxation was resorted to only in cases of emergency, generally to raise money to pay debts contracted by expeditions against St. Augustine or to put down attacks by the Indians.[1] But after the Revolution of 1719 the government was supported entirely by taxes levied upon the settlers. The custom thereafter was to pass an act each year, specifying the exact amount of money to be raised. At first these tax acts were passed at the opening of the fiscal year, but by 1775 they were generally passed some six months after the close of the fiscal year. Sometimes two years or even more would pass by without the passage of a tax act.[2] The various tax acts are long, and after 1721 are followed by long appropriation clauses appropriating every penny raised to some specific object.

The method of collecting the tax varied somewhat year by year, each tax act stating the amount of tax, the time of payment and the method of collection. According to the tax act of 1686,[3] the earliest tax act extant, the tax was assessed by thirteen freeholders appointed by the Council, and collected by two tax receivers. In 1690, the tax was collected by the constables. But the system adopted after 1700 was much more complicated. Each tax act generally appointed

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[1] Prior to 1713, tax acts were passed in 1682, 1683, 1685, 1686, 1691, 1693, 1701, 1702, 1703 and 1704. Of these, all are lost except those of 1686, 1701 and 1703.

[2] None were passed between the years 1727 and 1730, or between 1769 and 1777.

[3] "Statutes," II., 16, 17.

by name three sets of officials: Inquirers, Assessors, and Collectors. The acts passed after the middle of the century, however, generally combined the duties of the three sets of officers into one, except in Charleston, where one set performed the duties of Inquirers and another the duties of Assessors and Collectors.

The duty of the Inquirers[1] was to take under oath an inventory of the taxable property in their respective parishes. This was done in the earlier days by personal visit to each inhabitant in the particular district. In the later days each taxpayer was expected to hand the Inquirers a written report of his taxable property yearly. For concealment of property, a taxpayer was heavily punished. In case of refusal or neglect to render an account, the Inquirers were allowed to state the amount according to their best information, knowledge and judgment, and the delinquent was assessed double rates. The Inquirers, by a certain day named in the act, prepared a list stating the amount and location of the property of each inhabitant of the parish and published it for correction, giving the corrected list to the Assessors a week or two later. The Assessors, whose number was generally five in Charleston and two or three in the other parishes,[2] met at a certain hour upon a certain day at a certain house, all carefully described in the tax act, and there received the reports of the Inquirers and levied the tax in accordance with the rules prescribed in the act. Assessors were not bound to follow the returns of Inquirers strictly, but were allowed at their discretion to deviate from them and assess according to any better knowledge that they might possess. Any one believing himself to be overrated could appeal to the Assessors for an abatement of taxes.[3]

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[1] Their number generally varied from two to six, according to the size of the parish.

[2] After 1724. Before that date their number was larger. By the act of 1701, the Inquirers acted as Assessors. "Statutes," II., 182, § 2.

[3] In 1682, 1703 and 1715, a board was constituted to hear appeals. "Statutes," II., 17; 208, § 7; III., 269, § 8.

Having completed their labors, the Assessors issued a report, a copy of which was posted upon the door of the parish church. After 1721, the Assessors generally acted as Collectors in the various parishes.[1] Prior to 1721, the taxes were paid at Charleston; after that date, to the Assessors in each parish, who forwarded the money to the colonial Treasurer at Charleston upon a certain day.[2] The Inquirers, Assessors and Collectors not only generally served without pay, but were heavily fined for refusing to serve or for neglect of duty.[3]

The amount raised from taxation varied greatly year by year, from £400 in 1682 to £285,000 in 1761.[4] At first, only property was taxed. In 1690, a poll tax was collected from each freeman and each white servant above the age of sixteen.[5] In 1701, a poll tax was levied upon freemen alone.[6] In 1703, land, stocks and abilities were taxed.[7] After 1719, storekeepers outside of Charleston were assessed at the same rate as those within,[8] and in 1716 a tax was placed upon negroes.[9] Property of transients was not taxed until 1739, when a tax was levied upon itinerant merchants selling goods in Charleston.[10] Town lots outside of Charleston remained untaxed until 1760. Clergymen and property devoted to pious, charitable or educational uses were untaxed after 1739. After 1716, one-sixth of the total tax was gen-

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[1] The tax was variously collected before 1721.

[2] The property of delinquent taxpayers was levied upon for nonpayment.

[3] The acts of 1720 and 1721 allowed the Assessors 2½ per cent. of the amount assessed. The amount of the fine was generally £50 until 1764, after which time it was increased to £300.

[4] In 1703 it was £4000; in 1719, £35,000; in 1738, £8000; in 1739, £35,000; in 1751, £60,000; in 1752, £39,000; in 1756, £91,000; in 1757, £260,000; in 1758, £166,000; in 1759, £97,000; in 1761, £285,000; in 1762, £162,000; in 1765, £103,000; in 1766, £35,000; and in 1769, £70,000.

[5] "Statutes," II., 41.

[6] "Statutes," II., 182, § 1.

[7] "Statutes," III., 206, § 1.

[8] "Statutes," III., 70, § 5.

[9] "Statutes," II., 627, § 1.

[10] "Statutes," III., 535, §§ 31-35.

erally assessed upon the inhabitants of Charleston. Any one owning realty in Charleston and also in the country paid rates in Charleston for his town property and in the country for his country property; and in like manner slaves of Charleston inhabitants working principally in the country were rated in the country tax, and *vice versa*. The ratio of tax upon the various articles varied somewhat year by year, but some idea of the ratio may perhaps be obtained from the act of 1764, the heaviest passed during the colonial period. This act levied a tax of 40s.[1] upon each slave; 40s. upon each one hundred acres of land; 20s. for each £100 value of town lots, buildings, wharves, etc.; 20s. upon each £100 at interest; 4 per cent. upon annuities; 40s. upon each free negro paying no other tax, and 20s. upon each £100 invested in stock in trade, profits, faculties, professions, factorage and trade. This method of collection remained practically unchanged until 1798.

Besides the direct tax, considerable money was raised from the tariff.[2] The first tariff act was passed in 1691, and consisted of an export duty upon furs and skins.[3] This was followed a few years later by an import duty upon liquors and tobacco.[4] The number of dutiable articles steadily increased, until in 1775 they included, in addition to the above, sugar, bread, flour, fish, lumber, cocoanuts, Indians, negroes, vinegar, molasses, lime-juice, cocoa, chocolate, butter, cheese, candles, tallow, pork, beef, cranberries, oil, biscuit, ham, bacon, soap, timber, horses, indigo, pitch, tar, ginger, cotton, preserves, sweetmeats, spermacetti, beeswax, peas, corn, fruits, goods, wares and merchandise, etc., etc.[5]

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[1] A shilling in 1764 was worth about three cents. See Chapter X.

[2] The amount varied from year to year. In 1710, the amount raised was about £4500; in 1721, about £8000; in 1728, about £15,000; in 1732, about £13,000; in 1772, about £98,000. See Carroll, II., 259; "Statutes," III., 149, 334; Anderson, "Historical and Chronological Deduction of the Origin of Commerce," 190; "Collections," I., 303.

[3] "Statutes," II., 64-68.

[4] In 1695. "Statutes," II., 96.

[5] "Statutes," III., 744, § 17.

The customs officials were of two classes: Comptrollers and Waiters, both appointed by the Assembly. The duties of the Comptrollers consisted in keeping records of all vessels entering and leaving port and in overseeing the collection of the duties. They were paid by fees, regulated by the Assembly. The duties of the Waiters were to be at the wharves when vessels came in and to aid in enforcing the customs laws. They received a salary, at first of £40 a year, increased to £100 by 1740. Of the three ports of South Carolina, Charleston was by far the most important, yet no colonial custom-house was erected there until 1770.[1] The first Comptroller was appointed in 1703 and the first Waiter in 1716. Customs officials were appointed at Beaufort and Georgetown after the opening of those ports in 1740.[2]

The method of collecting the duties varied but slightly throughout the entire colonial period.[3] In brief it was as follows. A sea-captain on arriving in port made a manifest, signed under oath, of all goods contained in his vessel, and made oath that no goods had been landed secretly. Importers similarly under oath made three copies of their manifest, containing a list of goods imported, place of export and names of the vessel, captain and importer. These copies were given to the Comptroller of the port, who filed one away and countersigned the other two. The importer then carried the countersigned copies to the Treasurer, to whom he paid the duties upon the goods imported. The Treasurer filed away one of the copies and endorsed the other, which was then taken to a Waiter, who placed it on file and gave the captain permission to unload the goods. Likewise, ex-

[1] At a cost of £60,000. "Statutes," IV., 257-261, 326.

[2] A Receiver and a Waiter were appointed in each in 1740, and a Comptroller in 1743.

[3] Tariff acts were passed in 1691, 1695, 1703, 1707, 1711, 1716, 1719, 1721, 1723, 1740 and 1751, which last continued in force until 1783. See "Statutes," II., 64-68, 96, 201, 247, 304, 308, 326, 366, 652-661; III., 56-68, 159-170, 193-204, 270, 556-568, 670, 743-751; IV., 264, 332, 576-582. Duties were both *ad valorem* and specific, the former generally prevailing.

porters made entry of dutiable goods with the Comptroller and Treasurer, and the captain on receiving the goods on board his vessel did the same, after which he received a permit to sail. The rules adopted to prevent smuggling were many, but only two or three of the more important need be mentioned here. Previous to 1721, goods could not be landed until the duty upon them had been paid. After that date importers were allowed to unload on giving bond to pay the duty within three months.[1] Goods landed in the night-time or sold on board ship were forfeited. Finally, customs officials, when properly armed with search warrants, were allowed in the daytime to search vessels or buildings wherein goods were suspected to be concealed. The system in the earlier years was simpler than in the later, but the general scheme remained the same throughout the entire colonial period.

There was also a small tonnage duty, levied for the first time in 1686. This duty was payable at first in powder, a half-pound of powder for each ton of ship measurement.[2] In 1690, a Powder Receiver was appointed, and the tax was allowed to be paid in money, fifteen pence being considered the equivalent of a half-pound of powder.[3] The powder was kept in a brick powder-house, erected in Charleston in the early years of the eighteenth century.[4] This money equivalent slowly increased in amount until 1761, when it was placed at two shillings currency.[5] The Powder Receiver was appointed at first by the Governor, but later by the Assembly.[6] The method of collection was very simple. Captains on entering port entered the tonnage of their vessels with the Treasurer at the time the manifest was made. The Treasurer notified the Powder Receiver,[7] who collected the

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[1] The act of 1707 had accorded a similar privilege.

[2] "Statutes," II., 20, § 1.

[3] "Statutes," II., 42-44.

[4] "Statutes," II., 213.

[5] "Statutes," III., 589, § 1.

[6] "Statutes," II., 43; III., 685, § 1.

[7] After 1761, the entry was made with the Powder Receiver direct.

tax and gave a receipt therefor. The Secretary was forbidden to give clearance papers to any captain until he had produced a certificate showing the payment of the tonnage duty.[1]

The passage of the navigation acts and acts of trade by the British Parliament necessitated the appointment of a duplicate set of customs officials in the American colonies. Hence captains of vessels were obliged within twenty-four hours after their arrival at a colonial port to give the Governor or some one designated by him an inventory of the goods imported, to tell where the goods were loaded and to prove the vessel to be English.[2] The official just referred to soon came to be known as the Naval Officer, who was generally appointed by the Governor and gave security to the Commissioners of the Customs for the faithful performance of his duties,[3] which were to keep records of the entrance and clearance of all ships, grant certificates for the clearance of ships, and send the Commissioners of Customs at London yearly lists of ships that had entered or cleared his ports.[4] The collection of duties for the English government, in addition to the colonial duties which have been already described, was placed in the hands of the English Commissioners of the Customs, with power to appoint Collectors in the various colonial ports.[5] The Governors acted as Collectors at first,

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[1] Tonnage acts were passed in 1686, 1690, 1695, 1698, 1703, 1707 and 1746. "Statutes," II., 20, 42-44, 82-84, 150-153, 213, 214, 278, 308; III., 685, 686, 588-590. The act of 1707 is lost.

[2] 15 Car. II., c. 7, § 8. The method in detail is described in 15 Geo. II., c. 31. For provisions respecting colonial goods allowed to be carried to Mediterranean ports, see 3 Geo. II., c. 28; 12 Geo. II., c. 30; 4 Geo. III., c. 27; 5 Geo. III., c. 48, § 2.

[3] During the proprietary period he was appointed by the Proprietors and confirmed by the Commissioners of Customs. See "Collections," I., 144, 155, 156, 161, 162; II., 207; "North Carolina Colonial Records," I., 492.

[4] 15 Car. II., c. 7, § 8; 7 and 8 W. III., c. 22, § 5; Chalmers' "Opinions," I., 168; "Collections," I., 144, 147, 148, 232, 247, 261; III., 321.

[5] 25 Car. II., c. 7, §§ 2, 3; 7 and 8 W. III., c. 22, § 11; Douglass' "Summary," I., 216; "Collections," I., 147.

but after the erection of custom houses in the colonies, Collectors were appointed in each port.[1] The first English Collector at Charleston was appointed in 1685. Collectors were appointed at Port Royal and Georgetown shortly after the close of the proprietary period.[2] In the later colonial period three Surveyors-General of the Customs for America were appointed: one for the northern, one for the central, and one for the southern colonies. Their duties were to oversee the Collectors in the various ports and to represent the Commissioners of Customs in America. The office was abolished in 1774, and the Collectors were expelled on the breaking out of the Revolution.[3]

In addition to the revenue derived from the tariff and internal taxation, the colony received small sums from various sources, the more noteworthy being those arising from licenses to sell liquor and to engage in the Indian trade. In 1695, the liquor license fee was placed at £5 for a permit to sell all kinds of liquors, and at £3 to sell everything but wine.[4] Until 1709 the license fees were a perquisite of the Governor.[5] In 1711,[6] the granting of liquor licenses was placed under the care of a board of three commissioners. In 1741, the board was done away with, and the Treasurer was authorized to grant licenses upon the recommendation of two Justices of the Peace of the parish where the applicant wished to sell. The fee was also increased; a first-class license cost £6 currency in Charleston and £5 in the country; a second-class license which did not allow liquor to be drunk on the premises cost £4 4s. in Charleston and 16s. in the country.[7]

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[1] Chalmers' "Revolt," I., 126.

[2] Chalmers' "Revolt," I., 193; Carroll, I., 359; "Collections," I., 119, 159, 178, 285, 295; II., 120, 173.

[3] Carroll, II., 220; Chalmers' "Revolt," I., 127; "Collections," II., 126, 195.

[4] "Statutes," II., 85, 86, 113-115, 157, 190, 198, 336. The acts of 1683 and 1693 are lost. "Statutes," II., pp. v. and 77.

[5] "Statutes," II., 338, § 7; 364, § 6. [6] "Statutes," II., 365, § 7.

[7] "Statutes," III., 521-525, 752; IV., 47, 96, 207, 294, 333, 350, 383, 541.

In 1751, the Governor was given power to limit the number of liquor licenses to be granted.[1]

The question of regulating the Indian trade seems to have given the Assembly a great deal of trouble. In 1707,[2] commissioners were appointed to have entire charge of the Indian trade and to grant licenses to traders. In 1719, the commissioners were formed into a corporation. In 1721, a return was made to the old system, but the commissioners were given power to settle quarrels between the Indians and whites and to redress grievances of all kinds. In 1722, the powers of the board were transferred to the Governor and three members of the Council, who were given the right to employ a supervisor to manage the Indian trade. This gave way in the following year to the appointment of a single commissioner, with entire management of the Indian trade. In 1731, the commissioner was given additional powers to enforce his judicial decisions, and succeeding acts tended largely to increase his powers. The fees for licenses varied greatly at different times. In 1707 they were established at £8 currency a year. In 1721 they were reduced to £3. In 1723 they were increased to £30, and three persons were allowed to trade with one license. In 1731 a license was fixed at £30, and a trader was allowed to have two sub-traders on payment of £20 additional,—confined, however, to a certain territory. In 1734 the fee was increased to £50, lowered two years later to 10s. In 1739 it was placed at 16s., at which figure it remained until the outbreak of the Revolution.[3] The amount of money derived from license fees is not stated, but probably it was inconsiderable.

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[1] "Statutes," III., 752; IV., 207, 294, 333, 350.

[2] The act of 1692 is lost. "Statutes," II., 55. The Proprietors attempted to regulate the Indian trade as early as 1677. See Rivers, "Sketch," 388.

[3] The following is a list of statutes passed relating to the Indian trade: "Statutes," II., 55, 66-68, 309-316; III., 86-96, 141-146, 184-186, 229-232, 327-334, 399-402, 448, 449, 517-525, 587, 646, 763-771.

No county tax was ever levied during the colonial period.[1] There was no system whatever in the collection of local taxes. Each board of commissioners collected its own taxes whenever and as frequently as it pleased. Outside of Charleston the principal local taxes consisted of the road and poor rates. In Charleston there were, in addition, several others. Thus the fire commissioners provided the town with ladders, fire-hooks, buckets, engine, etc., and assessed the inhabitants annually to pay the expenses of the fire department.[2] In like manner the cost of supporting the Charleston watch was defrayed by a tax upon the inhabitants of Charleston, collected sometimes by Assessors specially appointed for the purpose and sometimes by the colonial tax officials at the same time that the colonial taxes were collected.[3] In like manner the buoys and pilot-boat in Georgetown harbor and the pilot-boat at Beaufort were at various times supported by local taxes.[4]

The roads were built and kept in repair in practically the same manner throughout the entire colonial period. Until 1721, each road was under the care of a separate board of commissioners. In 1721 the various boards were united into thirty-three separate boards, each having in charge one or more roads, creeks or drains.[5] With the growth of the colony, other boards were added. The duties of the various boards remained practically the same throughout the entire period: building and keeping in repair the roads, bridges, etc., under their especial care. Sometimes the work was per-

[1] The taxes called for by the precinct-court act of 1721 were never levied. "Statutes," VII., 174, § 2; 183, § 15.

[2] "Statutes," VII., 11, § 15; 20, § 15; 41, § 1; III., 535, § 30; VII., 59, 60. The department was created in 1698. In 1739, the support of the department cost the town £200.

[3] "Statutes," III., 509, § 33; 535, § 30; VII., 25, §§ 8-10; 52; 53. The cost of supporting the Charleston watch was, in 1703, £550; in 1708, £840; in 1738, £819 8s. 4d.; in 1739, £1042 8s. 8d.

[4] "Statutes," III., 407, 678-680, 712-714, 757-759, 760-763; IV., 48, 97, 151, 156, 157, 208, 265, 295, 321, 332, 348, 382.

[5] "Statutes," IX., 49-57.

formed by the males of the district; sometimes it was hired out and the cost assessed by the commissioners upon the inhabitants to be benefited by the road. The acts are many and vary greatly in detail, but the general idea of all was the same.[1] In Charleston the custom was to assess the inhabitants and hire the work done. After 1764 a tax of £1400 was annually assessed upon the inhabitants of the town to pay for the care of the streets.[2]

It finally remains to speak of the tax for the support of the poor. Until 1712, the poor were supported out of the colonial treasury.[3] In 1712 their support was thrown upon the parishes in which they resided, the churchwardens and vestry assessing the inhabitants for their support.[4] A large number of legal fines for various offenses were granted the wardens for the support of the poor, a few of the more interesting of which are the following: Fines levied on intimidators at the polls;[5] on officials receiving more than the legal fee;[6] on persons refusing to serve in certain offices to which they had been elected;[7] for neglecting to whip slaves found illegally away from their master's plantation;[8] for illegally giving slaves tickets without their master's consent;[9] fines on Constables, Justices of the Peace and Jailors for neglect of duty in not enforcing the provisions of the slave code;[10] fines on masters giving their slaves permission to spend Sunday in Charleston,[11] or to work where they pleased,[12]

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[1] "Statutes," IX., 1-150.

[2] See "Statutes," IV., 205, § 29; 228, § 29; 253, § 32; 283, § 31; 309, 332; IX., 50, § 1; 697-705.

[3] "Statutes," II., 117, § 3. Charleston looked after its own poor. "Statutes," II., 135, § 3.

[4] "Statutes," II., 593, § 3. See also II., 606, § 1; III., 117, § 6; IV., 50.

[5] "Statutes," II., 689, § 23; III., 54, § 15; 139, § 14.

[6] "Statutes," III., 414, § 1.

[7] "Statutes," IV., 50, § 2.

[8] "Statutes," VII., 352, § 2.

[9] "Statutes," VII., 372, § 2; 386, § 2.

[10] "Statutes," VII., 364, § 31.

[11] "Statutes," VII., 364, § 31.

[12] "Statutes," VII., 408, § 33.

or neglecting to report the finding of stolen property upon their slaves,[1] or maltreating[2] or not giving them sufficient food or clothing,[3] or for neglecting to have at least one white person upon a plantation for every ten slaves kept there;[4] for neglecting to publish a slavery act at the head of the militia;[5] for firing a gun unnecessarily after dark;[6] fines on masters for refusing to give a certificate of discharge to a servant who had served his time.[7] or maltreating[8] or turning him away when sick;[9] for getting a servant drunk or trading with him;[10] fines for violations of the Sunday law,[11] or going to church unarmed, or, if armed, not taking the arms into church;[12] fines on officials neglecting to enforce the law relating to pedlers, or pedlers refusing to show their licenses on demand;[13] fines on persons for selling wood short length or coal short measure, or refusing to serve as Measurer;[14] fines on bakers for adulterating their bread;[15] fines for voluntarily communicating smallpox to another, or not giving public notice of infected houses;[16] for leaving a vessel when in quarantine;[17] for running a lottery, or buying or selling lottery tickets, or gambling;[18] fines on Sheriffs for neglecting to fur-

[1] "Statutes," VII., 364, § 31.
[2] "Statutes," III., 18, § 13; VII., 399, § 6.
[3] "Statutes," VII., 411, § 38.
[4] "Statutes," III., 272, §§ 1, 3.
[5] "Statutes," III., 698, § 4.
[6] "Statutes," VII., 412, § 41.
[7] "Statutes," III., 17, § 10.
[8] "Statutes," III., 624, § 11.
[9] "Statutes," III., 628, § 25.
[10] "Statutes," III., 625, § 12.
[11] "Statutes," II., 398, § 9.
[12] "Statutes," VII., 417, § 1.
[13] "Statutes," III., 489, § 9; 488, § 3.
[14] "Statutes," III., 690, § 14; IV., 292, §§ 7, 8.
[15] "Statutes," III., 717, § 4.
[16] "Statutes," III., 513, § 1; IV., 106-109; 182-185.
[17] "Statutes," III., 177, § 4.
[18] "Statutes," III., 730; IV., 159, § 2; 160, §§ 7, 8; 180.

nish a watch or for not watching, or getting drunk while on watch;[1] fines for butchering cattle or hogs or erecting slaughter-houses, cattle-pens, sheep-pens or hog-sties within the Charleston intrenchments;[2] fines for letting chimneys catch fire;[3] for boiling pitch, tar, rosin or turpentine in Charleston, or keeping stills in Charleston;[4] fines on clerks of the county courts for practicing law;[5] fines for refusing to work upon the roads;[6] fines on ferrymen for non-attendance to their duties;[7] fines for killing deer in the night-time or hunting more than seven miles away from home;[8] and fines for selling meat, butter or fish in Charleston except at the appointed markets.[9] These are but a few of the fines specially appropriated for the support of the poor. It is impossible to state the amount derived from them, as the majority were levied by Justices of the Peace, who kept no records of their proceedings, and in many cases by commissioners with scarcely any trace of judicial procedure; and, finally, few of these fines lasted for more than a few years. Probably the amount raised from them was very inconsiderable, and the poor were supported principally by a local tax upon the inhabitants of the parish.

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[1] "Statutes," VII., 4, § 2; 8, § 1; 34, § 4; 51, §§ 7, 8.

[2] "Statutes," VII., 12, § 19; 21, § 19; 22, § 24; 38, §§ 1, 7; 76, §§ 1, 3; IX., 702, § 15.

[3] "Statutes," VII., 11, § 14; 20, § 14; 22, § 24; 42, §4.

[4] "Statutes," VII., 42, §§ 5, 6.

[5] "Statutes," VII., 168, § 8.

[6] "Statutes," IX., 55, § 21.

[7] "Statutes," IX., 61, § 3; 65, § 7; 68, § 3; 76, § 4; 77, § 1; 79, § 3; 81, § 1; 122, § 4.

[8] "Statutes," IV., 310, 311.

[9] "Statutes," IX., 692-697, 705-708.

CHAPTER X.

The Currency.

The currency problem that presented itself in South Carolina was practically the same as that in the other colonies. In none of them were the precious metals found in any appreciable quantity. On the other hand, the commercial policy adopted by England was of a character calculated to withdraw from the colonies what little coin they did possess. Hence we might expect a continual stringency in the money market; and such indeed was the case. In fact, very little coin was to be found in any of the colonies, and that came chiefly from Mexico and the West Indies, finding its way into the English colonies through the illicit trade carried on by the latter with the former. These coins were of various values and were variously received in the different colonies. There was no standard of value in any colony and money circulated anywhere from par to fifty per cent. discount, according to the agreement made by the parties.[1] To obviate this difficulty and to settle the values of foreign coins in the colonies, Queen Anne issued a proclamation stating in English currency the value of the principal coins in circulation in the colonies. This proclamation did not make the coins mentioned therein legal tender, but merely gave them a stable value in all the colonies, which was generally about twenty-five per cent. less than sterling. The proclamation was issued June 18, 1704. As it was very generally disregarded in the colonies,[2] Parliament passed an act three years later levying a fine of £10 upon any one re-

[1] "New York Colonial Documents," IV., 669; Chalmers' "Revolt," I., 320; "Annual Register," 1765, p. 27]; Carroll, I., 268.

[2] "Historical Manuscripts Commission," 5th Report, p. 228; "Journals of the House of Commons," XXIII., 527.

ceiving these coins at a higher rate than that mentioned in the proclamation.[1] The amount of foreign coin in the colonies was by no means sufficient to satisfy the needs of the colonists. In South Carolina, as early as 1687, several commodities were given a standard value in the payment of debts,[2] and taxes were allowed to be paid in rice or even other merchantable commodities.[3]

In 1703, South Carolina issued her first paper money. The unfortunate expedition against Saint Augustine during the preceding year had saddled the colony with a heavy debt, to pay which a tax was levied upon the settlers.[4] Instead of waiting until the money should be collected, the expedient was resorted to of paying the debt immediately by the issue of bills of credit, which it was expected would be retired at the end of the year. £6000 were accordingly issued, in bills of various denominations, ranging from 5os. to £20 each, bearing interest at twelve per cent., and declared to be a legal tender and receivable for taxes.[5] The continuation of Queen Anne's War made it necessary not

[1] The values given the coins were as follows; halves, quarters, etc., proportionately:

Sevil pieces of eight, old plate,	4s. 6d.
" " " new "	3s. 7d. 1 far.
Mexico," "	4s. 6d.
Pillar, " "	4s. 6d. 3 far.
Peru, " "	4s. 5d.
Cross Dollars,	4s. 4d. 3 far.
Ducatoons of Flanders,	5s. 6d.
Ecu's of France or Silver Lewis,	4s. 6d.
Crusadoes of Portugal,	2s. 10d. 1 far.
Three Gilder pieces of Holland,	5s. 2d. 1 far.
Old Rix Dollars of the Empire,	4s. 6d.

6 Anne, c. 30. Also enacted in South Carolina in 1712; "Statutes," II., 563-565. See also I., 428.

[2] "Statutes," II., 37.

[3] Ashley, "Memoirs and Considerations Concerning the Trade and Revenues of the British Colonies in America," 50.

[4] The tax act called for £4000, and a duty act was expected to raise the remainder. "Statutes," II., 201-210, 229-232.

[5] "Statutes," II., 210-212, §§ 10-15.

only to use the funds collected for the withdrawal of the bills of credit, but also to levy additional taxes in order to repair the fortifications at Charleston, repel invasion and undertake expeditions against Saint Augustine. Therefore the bills, instead of being redeemed at the end of the year, were simply continued in circulation, and the lack of coin in the colony gave them a ready circulation.

The continuation of the war also called for the issue of more bills, which were generally in smaller denominations than the first.[1] In 1712 was passed the Bank Act, so called, which authorized the emission of £52,000 in bills to take the place of those already issued and to pay debts already incurred.[2] The corporation created by this act was not a bank in our sense of the term. The nine members therein named were merely authorized to issue a certain number of bills of credit, which were to be redeemed at a certain time and in a certain manner. The act conferred no power to do banking business of any kind.[3] With the outbreak of the Yesmassee War in 1715 came another issue of bills, and before the close of the war £50,000 in paper had been issued.[4] By the terms of issue, these various bills were to be redeemed within a certain number of years,[5] were receivable for customs and taxes, and when once returned to the treasury could not be reissued. After several bills had been retired from circulation, however, the custom was to authorize the issue of new bills to take the place of the old and to provide for the establishment of a sinking fund for their future payment, a provision, however, seldom carried out in the earlier years of the eighteenth century.

In fact, the whole matter soon fell into great confusion. With each fresh issue of bills came a decrease in their pur-

[1] See "Statutes," II., 302-304; 352-354; Carroll, II., 256, 257.

[2] "Statutes," II., 389; IX., 759-765.

[3] The first bank in South Carolina was chartered in 1801. "Statutes," VIII., 1.

[4] "Statutes," II., 627, 640, 653-655, 682.

[5] Sometimes two or three, sometimes twenty or thirty.

chasing power. At the time of the first issue in 1703 and for a few years thereafter, the bills depreciated but slightly in value.[1] But after the large increase in 1712, their depreciation was very rapid. By 1710, they had depreciated about fifty per cent.[2] At the outbreak of the Yemassee War, sterling was four times as valuable as currency; at its close, six times; and at the outbreak of the Revolution of 1719, eight times.[3] From then until 1775, sterling remained at a fairly constant advance over paper of from seven to eight hundred per cent.[4]

At first, no serious objection was offered to the issuing of paper money; but its rapid depreciation after the passage of the Bank Act in 1712 frightened the merchants trading with the colony to such an extent as to cause the Proprietors to forbid any future issues;[5] and a standing instruction to the Governors, after the purchase of the colony by the King, was to prevent any increase in the amount of outstanding paper.[6] This instruction caused a great deal of friction between the Governor and Assembly. An act passed in 1722 providing for the issue of £120,000 in bills was disallowed by the Crown.[7] Nevertheless the Assembly calmly ordered the bills to be printed and put into circulation. The Governor upheld the prerogative of the King and refused to assent to any further inflation of the currency. In 1726, matters came to a crisis. The Assembly refused

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[1] See Hawks and Perry, "Documentary History of the Protestant Episcopal Church of South Carolina," p. 24.

[2] Carroll, II., 257. [3] Carroll, II., 145.

[4] "Statutes," II., 131, § 1; 335, § 1; 447, § 32; 511, § 34; 672, § 1; IV., 19; 279, § 31; "Collections," I., 301. In 1732, the Assembly formally declared proclamation money to be five times as valuable as currency. "Statutes," II., 373, § 2.

[5] "Collections," I., 165, 167, 270, 300; Chalmers' "Opinions," II., 27.

[6] "Collections," I., 272, 302; II., 159, 300. See also "Journals of the House of Commons," XXIII., 527, where several resolutions of the House are given in 1740.

[7] "Statutes," III., 188-192; 219-221; "Collections," I., 278.

to pass any bill until the Governor assented to an increase in the amount of paper money outstanding. This deadlock continued until 1731, when the King finally gave his assent, provided proper provisions were made for the future redemption of all paper issued. £106,500 were issued, and harmony was again restored to all branches of the legislature.[1] Of subsequent issues, little need be said. Bills were issued every few years to supersede those in existence or to defray expenses of war, but sinking funds were always provided for, and these later bills seem always to have been redeemed when they fell due.[2]

The amount of paper issued in the other colonies was very large and had depreciated very materially, although in none to such an extent as in South Carolina. At the request of the merchants, Parliament took the matter in hand in 1740 and requested the King to issue instructions to the Governors forbidding the further issue of legal tender paper.[3] This was done, but the colonies persisted in doing as before. In 1744, a bill was ordered to be brought into Parliament to prevent the future issue of paper money,[4] but the long and earnest petitions of the colonists[5] postponed the evil day until 1751, when Parliament formally decreed that all acts of the New England colonies creating bills of credit and endowing them with a legal tender quality were void,[6] a provision extended to the other colonies in 1764.[7]

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[1] "Collections," II., 126, 177; "Statutes," III., 305-307. See the accounts of this interesting struggle in "Collections," I., 300-305; Rivers, "Chapter," 22-39.

[2] For the more prominent acts relating to bills of credit, see "Statutes," II., 210-212, 302-304, 352-354, 389, 604, 627, 640, 663-665, 682; III., 34-36, 188-192, 219-221, 305-307, 349-350, 411-413, 423-430, 461-464, 671-677, 702-704, 776; IV., 113-128, 144-148, 154-155, 312-314, 323, 324, 335-336.

[3] "Journals of the House of Commons," XXII., 527.

[4] "Journals of the House of Commons," XXIV., 658.

[5] See "Journals of the House of Commons," XXV., 792, 793, 818, 819.

[6] 24 Geo. II., c. 53.

[7] 4 Geo. III., c. 34. See also 13 Geo. III., c. 57.

APPENDIX I.

Population of South Carolina.

Date.	Whites.	Slaves.	Totals.
1671, March.[1]	200	..	..
1671-2[2]	399	..	..
1672[3]	406	..	..
1680[4]	1,200	..	..
1685[5]	2,500	..	..
1699[6]	1,100 families.	..	..
1700[7]	5,000-6,000	..	..
1701[8]	7,000	..	..
1703[9]	..	..	8,160
1708[10]	4,080	4,100	8,160
1708[11]	..	..	12,000
1714[12]	..	10,000	..
1715[13]	6,250	10,500	16,750
1715[14]	6,300	..	..

[1] Sainsbury's "Calendars," III., No. 474.

[2] Winsor's "Narrative and Critical History of America," V., 310; "Charleston Year Book," 1883, p. 379.

[3] Sainsbury's "Calendars," III., No. 736.

[4] Carroll, II., 82.

[5] Winsor, V., 309; "Charleston Year Book," 1883, p. 385.

[6] Rivers, "Sketch," 443; "Collections," I., 210. Also four negroes to one white.

[7] Carroll, I., 132; Drayton's "View," 103.

[8] Humphreys, "Historical Account of the Incorporated Society for the Propagation of the Gospel in Foreign Parts," 25; Hawkins' "Missions," 23.

[9] Rivers, "Sketch," 232.

[10] "Collections," II., 217.

[11] Carroll, II., 460.

[12] Rivers, "Sketch," 251, note.

[13] Chalmers' "Revolt," II., 7.

[14] Rivers, "Chapter," 92.

Date.	Whites.	Slaves.	Totals.
1716[1]	..	10,000	..
1720, Jan. 12.[2]	6,400	..	..
1720, Mar. 14.[3]	9,000	11,828	..
1721[4]	9,000	12,000	..
1721[5]	14,000	..	..
1723[6]	..	..	23,000
1723[7]	14,000	18,000	32,000
1723[8]	4,000	32,000	36,000
1724[9]	..	16,000-20,000	..
1724[10]	14,000	32,000	..
1729[11]	2,000 men.	..	..
1730[12]	6,000-7,000	22,000	..
1730[13]	..	28,000	..
1731[14]	..	40,000	..
1733[15]	..	40,000	..
1734[16]	7,333	22,000	29,333
1734[17]	6,000	30,000	..
1735[18]	..	40,000	..

[1] "North Carolina Colonial Records," II., 233.

[2] Rivers, "Chapter," 92; "Collections," II., 239.

[3] Rivers, "Chapter," 19, 56.

[4] "New York Colonial Documents," IV., 610; "Historical Manuscripts Commission," 11th Report, Appendix, Part IV., p. 254.

[5] Drayton's "View," 103.

[6] Carey's "American Pocket Atlas," 154.

[7] Drayton's "View," 103.

[8] "History of North America," London, 1776, p. 189; "Collections," I., 279.

[9] Carroll, I., 267. [10] Carroll, II., 261. [11] "Collections," II., 120.

[12] Gay and Bryant's "United States," III., 107.

[13] Buckingham, "Slave States of America," I., 31; "The First Century of the American Republic," p. 217.

[14] Carroll, II., 129.

[15] "Georgia Historical Society's Collections," I., 149.

[16] Carroll, I., 306; Drayton's "View," 103.

[17] Force's "Tracts," IV., No. 5, p. 9.

[18] Ramsay, I., 110; II., 233.

Date.	Whites.	Slaves.	Totals.
1739[1]	..	40,000	..
1740[2]	5,000	40,000	..
1743[3]	..	40,000	..
1749[4]	25,000	39,000	64,000
1749[5]	30,000	..	..
1750[6]	..	..	64,000
1752[7]	25,000	..	..
1753[8]	30,000	..	..
1754[9]	40,000	..	..
1755[10]	25,000	..	..
1755[11]	30,000	..	..
1759[12]	140,000	108,000	248,000
1763[13]	30,000-40,000	70,000	..
1765[14]	40,000	80,000	120,000
1765[15]	40,000	90,000	130,000
1766[16]	40,000	95,000	135,000
1770[17]	..	81,728	..
1770[18]	..	75,178	..
1773[19]	75,000	110,000	185,000

[1] Carroll, I., 331.

[2] "Georgia Historical Society's Collections," I., 167.

[3] Winsor, "America," V., 335. [4] Weston, 92.

[5] Buckingham, "Slave States of America," I., 43.

[6] Melish, "United States," 270; Buckingham, I., 43.

[7] "New York Colonial Documents," VI., 993; "New Jersey Colonial Documents," VIII., Part 2, 132.

[8] Mills, 177.

[9] Bancroft, IV., 129; Last revision, II., 391. [10] *Ibid.*

[11] "London Magazine," May, 1755, quoted in "Massachusetts Historical Society's Collections," VII., 200.

[12] Hawkins' "Missions." [13] Carroll, II., 478, 479.

[14] Carroll, I., 503; Drayton's "View," 103.

[15] Buckingham, I., 34, 43. [16] Melish, "United States," 270.

[17] Anderson, 188; "North American and West Indian Gazetteer," 1778, Article Carolina; Winsor, "America," V., 335.

[18] Winsor, "America," V., 335.

[19] "Historical Magazine," November, 1865, p. 346.

Date.	Whites.	Slaves.	Totals.
1773[1]	65,000	110,000	175,000
1775[2]	60,000	80,000-100,000	..
1775[3]	70,000	104,000	174,000
1775[4]	75,000	..	..
1783[5]	..	..	200,000
1787[6]	..	..	180,000
1790[7]	140,178	108,805	249,073

Population of Charleston.

Date.	Whites.	Slaves.	Totals.
1707[8]	..	..	3,000
1722[9]	..	..	300
1732[10]	..	..	3,000
1763[11]	4,000	4,000	8,000
1765[12]	5,000-6,000	7,000-8,000	..
1767[13]	4,000	6,000	..
1770[14]	5,030	6,276	11,330
1773[15]	..	..	14,000
1775[16]	5,500	..	..

[1] Winsor, V., 335; "North American and West Indian Gazetteer," 1778.

[2] Moore's "Laurens' Correspondence," 181.

[3] Winsor, V., 335.

[4] Simms, "South Carolina in the Revolutionary War," 66.

[5] Smyth's "Tour," I., 207.

[6] Bonnet, "Reponse aux Principales Questions qui peuvent être faites sur les États-Unis de l'Amerique," I., 190.

[7] United States Census. The more reliable of the above figures are given in Dexter's "Population in the American Colonies."

[8] Carroll, II., 450.

[9] Chalmers' "Opinions," I., 55. Perhaps "voters" is meant.

[10] "Collections," III., 316.

[11] Carroll, II., 484.

[12] Carroll, I., 503; "Charleston Year Book," 1880, 254.

[13] Köhler, "Reisebeschreibungen."

[14] Also 24 free negroes. Anderson, 187; "North American and West Indian Gazetteer," 1778, Article Carolina.

[15] *Ibid.*

[16] Chalmers' "South Carolina," 36.

Date.	Whites.	Slaves.	Totals.
1783[1]	..	..	8,000
1784[2]	..	..	10,000-12,000
1790[3]	8,089	8,270	16,359

[1] Smyth's "Tours," II., 84. [2] Schöpf, "Reise," I., 262.
[3] United States Census.

APPENDIX II.

Governors of South Carolina.

Proprietary Governors.

Name.	Years of Service.
William Sayle,	1670-1671
Col. Joseph West,[1 2]	1671-1672
Sir John Yeamans,	1672-1674
Col. Joseph West,[1 3]	1671-1672
Joseph Morton,	1682-1684
Col. Joseph West,[4 5]	..
Sir Richard Kyrle,	1684
Col. Robert Quarry,[2]	1684-1685
Joseph Morton,[2 3]	1685-1686
Sir James Colleton,	1686-1690
Seth Sothell,[6]	1690-1691
Thomas Smith,[6]	..
Philip Ludwell,[7]	1691-1693
Thomas Smith,[7 3]	1693-1694
Joseph Blake,[2]	1694-1695
John Archdale,[7]	1695-1696
Joseph Blake, Jr.,[8]	1696-1700
Col. James Moore,[2]	1700-1702
Sir Nathaniel Johnson,[7]	1703-1710
Col. Edward Tynte,[7]	1710
Robert Gibbes,[2]	1710-1711
Charles Craven,	1711-1716
Robert Daniel,[9]	1716-1717
Robert Johnson,	1717-1719

[1] Nominated by Gov. Sayle. [2] Elected by the Council.
[3] Second term. [4] Third term. [5] Did not serve.
[6] Elected by the people.
[7] Also Governor of North Carolina at the same time.
[8] Appointed by Gov. Archdale. [9] Appointed by Gov. Craven.

Revolutionary Governors.

Name.	Years of Service.
Arthur Middleton,[1]	1719
Col. James Moore,[2]	1719-1721

Royal Governors.

Name.	Years of Service.
Francis Nicholson	1721-1725
Arthur Middleton,[3 4]	1725-1730
Robert Johnson,[3]	1730-1735
Thomas Broughton,[5]	1735-1737
William Bull,[6]	1737-1743
Samuel Horsey,[7]	..
James Glen,	1743-1756
William Lyttleton,	1756-1760
William Bull, Jr.,[4]	1760-1762
Thomas Pownall,[7]	..
Thomas Boone,	1762-1763
William Bull, Jr.,[3 4]	1763-1765
Lord Charles G. Montague,	1766-1769
William Bull, Jr.,[4 8]	1769-1775
Lord William Campbell,	1775

[1] President of Revolutionary Assembly.
[2] Second term; elected by Commons House of Assembly.
[3] Second term. [4] President of the Council.
[5] Commissioned Lieutenant-Governor in 1726.
[6] Senior Councillor. [7] Did not serve. [8] Third term.

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